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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable ROBERT P. CASEY, a Senator from the Commonwealth of Pennsylvania.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Gracious God, to whom all thoughts are revealed and all desires known, we pray for this large Senate family. Lord, you know the secret needs of each person on Capitol Hill, those who are hurting or feel frustrated, discouraged, or exhausted. You know who has stopped loving and those who are experiencing estrangement in important relationships. You know also when guilt is corroding a soul.

Today, we ask You to bless all those who need Your love and healing, providing them with the grace and renewal only You can give. Lord, do in their lives exceedingly, abundantly, above all that they can ask or imagine, according to Your power working in and through them.

We pray in Your merciful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ROBERT P. CASEY led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 10, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT P. CASEY, a Senator from the Commonwealth of Pennsylvania, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CASEY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following leader remarks, there will be a period of morning business for up to 1 hour, with Senators permitted to speak therein for up to 10 minutes each. The Republicans will control the first 30 minutes and the majority will control the second 30 minutes.

Following morning business, the Senate will resume consideration of the tobacco legislation. There will then be up to 1 hour for debate only, with the time equally divided and controlled between the two leaders or their designees. This morning, we hope to reach an agreement to dispose of the pending Lieberman amendment and several additional amendments. Upon the use or yielding back of the debate time on the bill—that is 1 hour—and disposition of the Lieberman amendment, the substitute amendment will be agreed to and the Senate will proceed to a cloture vote on the underlying tobacco bill; therefore, Senators should expect a vote at around 11:30.

NOMINATIONS

Mr. REID. Mr. President, we have 25 nominations the Republicans have held up. They are important. I was visited by Secretary Salazar regarding Hilary Tompkins, who is somebody he needs. She would be a lawyer for the Interior Department. She has a great education and background. That was cleared yesterday, and then the Republicans said no.

We have numerous people. For the Sentencing Commission, there is William Sessions of Vermont. We hear that is being held up because Senator LEAHY is from Vermont and they don't like the way Chairman LEAHY is handling the Judiciary Committee. That is what we have been told. We also have Harold Koh. I heard on Monday, day before yesterday, from Secretary Clinton that this is somebody she needs very badly. Mr. Koh is going to be the lawyer for the State Department. We have a number of people under the auspices of the judiciary, and we can go through these. We have somebody who is going to help run the Department of Homeland Security, Rand Beers, who is well-qualified and a good person. The topper of them all is LTG Stanley McChrystal to be the man who runs Afghanistan.

I hope people will search their consciences and try to get these done. I cannot file cloture on every one of these. So that people watching this will understand our Senate procedure, it takes days for us to do that. With 25 nominations held up, it would take all summer—until we finish the July recess and beyond that—for us to get this done, filing cloture on every one of these. I hope it doesn't come to that.

HEALTH CARE

Mr. REID. Mr. President, in a single word, the health debate is about ''choices.'' Will our country choose to tell parents they cannot take their child to the doctor because insurance is not in existence or is prohibitively expensive? Will we choose to tell small

businesses they have to lay off employees because they cannot afford skyrocketing health care premiums? As was outlined by Senator DURBIN yesterday, a small businessman he talked about was dealing with the travails of trying to maintain health insurance for his employees. Will we choose real, meaningful health care reform that assures everybody the quality care they deserve?

There is another way this debate is about choice. Democrats are committed to ensuring all Americans can choose their doctors, hospitals, and health plans. No matter what the Republicans claim, this government has no intention of choosing any of these things for you or meddling in any of these relationships. We have said that time and again. If you like the coverage you have, you can choose to keep it or you can change if you desire.

Like most Americans, we believe there should be more choice and more competition to lift the heavy weight of crushing health care costs. Today, 18 cents of every dollar spent in America is on health care. If we don't do something about this legislatively, by 2020 it will be more than 35 percent of every dollar spent in America. If we leave it up to private insurance companies, which are more interested in keeping their profits than keeping us healthy, that won't happen. One of the best ways to do that—that is, to give people choice and competition—is to pass the health care legislation.

Third, the Republicans have a choice in this debate. They can choose to work with us or against the interests of the American people. From the start, we have reached out to Republicans in this debate. Senator BAUCUS has done everything he can to get a bipartisan bill. He still believes he can do that. I hope that is the case. Senator DODD, filling in for Senator KENNEDY, has done the same. He has reached out to Ranking Member ENZI and others on the committee to try to come up with a bipartisan bill. That bill was given to us yesterday.

Again, from the start, we have reached out to Republicans. We have let them know we would rather write this bill with them. That is what we want to do. Republicans, so far, have made it quite clear what they are against. We remain interested to learn what they are for. Democrats continue to save for our Republican colleagues a seat, or seats, at the table, and we sincerely hope they will take those seats.

Last year, the American people made their choice clear. In no uncertain terms, they rejected the Republican status quo. Those with coverage know their health care bills are higher because of tens of millions of Americans who are uninsured. They know they should not have to go bankrupt or lose their home just to afford to stay healthy or care for a loved one.

I am sure we will disagree in the debate at times, and that is fine. We welcome an open and honest debate on the issue. We welcome a dialog.

One choice we do not have is to wait. We don't have a choice to wait. Health care is not a luxury. It should not be a luxury. We cannot afford another year in which about 50 million of us have to choose between basic necessities and lining the pockets of big insurance companies just to stay healthy.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

HEALTH CARE

Mr. MCCONNELL. Mr. President, Americans are increasingly frustrated with the U.S. health care system as we know it. They expect real reform, not just the promise of reform that never seems to come or the illusion of reform that ends up destroying what is good about the current system and replacing it with something that is actually worse.

Americans don't think basic medical procedures should break the bank, and they don't understand why millions of Americans have to go without basic care in a nation as prosperous as our own. Still, many Americans are quite happy with the health care they currently have, and they don't want to be forced into a government plan they don't like.

So the need for reform is not in question. The real question is what kind of reform—the kind that makes care more affordable and accessible or the kind that makes existing problems worse.

One thing most people like about health care in the U.S. is the quality of cancer care that's available here. Far too many Americans die from cancer. Yet for all the problems we have, the fact is, America boasts some of the highest cancer survival rates in the world. And that is not the kind of thing Americans want to see change. But it could very well change if the U.S. adopts a government-run health care system along the lines of the one some are proposing.

A recent study comparing U.S. cancer survival rates with other countries found that, on average, U.S. women have a 63 percent chance of living at least 5 years after a cancer diagnosis compared to a 54 percent rate for women in Britain. As for men, 66 percent of American males survive at least 5 years while 45 percent of British men do.

Just as important as treatment is early detection. And here again, the U.S. routinely out performs countries with government-run health care systems. According to one report, 84 percent of women between the ages of 50 and 64 get mammograms regularly in the United States—far higher than the 63 percent of women in the United Kingdom. Access to preventive care is extremely important and, frankly, when it comes to breast cancer, preventive care is something we do quite well in the U.S.

These are the kinds of things Americans like about our system, and these are the kinds of things that could change under a government plan. Americans don't want to be forced off their existing plans, and they certainly don't want a government board telling them which treatments and medicines they can and cannot have.

It is no mystery why Americans have higher cancer survival rates than their counterparts in a country such as Great Britain. Part of the reason is that Americans have greater access to the care and the medicines they need. And they don't want that to change. All of us want reform but not reform that denies, delays, or rations health care. Instead, we need reform that controls costs even as it protects patients.

Some ways to do this would be by discouraging the junk medical liability lawsuits that drive up the cost of practicing medicine and limit access to care in places such as rural Kentucky; through prevention and wellness programs that reduce health care costs, such as programs that help people quit smoking, fight obesity, and get early diagnoses for disease; and we could control costs and protect patients by addressing the needs of small businesses without imposing mandates or taxes that kill jobs.

All of us want reform, but the government-run plan that some are proposing for the U.S. isn't the kind of change Americans are looking for. We should learn a lesson from Canada. At a time when some in the U.S. want government-run health care, Canada is instituting reforms that would make their system more like ours.

According to Canadian-born doctor David Gratzer, the medical establishment in Canada is in revolt, with private sector options expanding and doctors frustrated by government cutbacks that limit access to care. The New York Times reported a few years ago that private clinics were opening in Canada at the rate of about one a week—private clinics. Dr. Gratzer asked a simple question: Why are Americans rushing into a system of government-dominated health care when the very countries that have experienced it for so long are backing away? Many Americans are beginning to ask themselves the very same thing.

SOTOMAYOR NOMINATION

Mr. MCCONNELL. Mr. President, Senator LEAHY's decision to rush Judge Sotomayor's confirmation hearing is, indeed, puzzling. It risks resulting in a less-informed hearing, and it breaks with years of tradition in which bipartisan agreements were reached and honored over the scheduling of hearings for Supreme Court nominees. It damages the cordiality and good will the Senate relies on to do its business. These kinds of partisan maneuvers have always come with consequences. This time is no different.

The explanations that some of our friends offered yesterday to justify a rushed hearing were almost as remarkable as the decision itself and the partisan way in which it was handled. Some said Republicans proposed unreasonable hearing dates. Yet no one can cite the time and place when any of these supposed requests were made.

But blaming Republicans for statements they never made was not as ludicrous as the claim that Judge Sotomayor's long judicial record is somehow reason to rush the review process. Not only is this counterintuitive—why should it take less time to read more cases?—it also flies in the face of every statement our Democratic friends made on the topic after the nomination of the last two Supreme Court nominees.

Time and time again, they told us the Senate was not a rubberstamp and that hearings for Judge Alito and Judge Roberts could not be rushed. As Senator LEAHY put it at the time:

We want to do it right. We don't want to do it fast.

Republicans respected these requests because we recognized the importance of a thorough review. On the Alito nomination, for instance, Senators had 70 days to prepare for a hearing on a nominee who, as Senator LEAHY noted at the time, had handled some 3,500 cases on the Federal bench. Judge Sotomayor has handled over 3,600 cases, so it stands to reason we would have as much time to review her record as we did Judge Alito's. But for some reason, the old standard has been thrown out as new reasons have emerged for rushing the process on this nominee.

As Senator SESSIONS informed us yesterday, the questionnaire Judge Sotomayor filled out suffers from significant omissions. For example, she failed to produce numerous opinions from cases in which she was involved as a district attorney.

In addition, she failed to produce a memorandum from her time with the Puerto Rican Legal Defense Fund that opposed the application of the death penalty. When this omission was brought to the judge's attention, I understand the White House then provided this memorandum, saying it was an oversight. But in the rush to complete the questionnaire in order to garner a talking point, you are prone to these sorts of mistakes. This, of course, counsels the Senate to have a thorough, deliberative process, not a rush to judgment in order to meet an arbitrary deadline.

When it came to Republican nominees such as Judge Roberts and Judge Alito, our Democratic friends wanted to review the record, and Republicans worked in a bipartisan fashion to come to a consensus on a fair process that respected the minority's rights. Yet when it comes to a Democratic nominee, our friends want to deny Republicans the same rights. They want the shortest confirmation timeline in recent memory for someone with the longest judicial record in recent memory. Let me say that again.

They want the shortest confirmation timeline in recent memory for someone with the longest judicial record in recent memory.

This violates basic standards of fairness, and it prevents Senators from carrying out one of their most solemn duties—a thorough review of the President's nominee to a lifetime position on the highest Court in the land. The decision to short circuit that process is regrettable and completely unnecessary.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for up to 1 hour, with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the second half.

The Senator from Nevada.

GUANTANAMO

Mr. ENSIGN. Mr. President, as we are confronted with the news this week of the first of what may be many deadly terrorists being transferred to American soil, I am still left to wonder what the administration's plan is for the detention facility at Guantanamo Bay.

I recently had the privilege of visiting Guantanamo Bay. I traveled down there with Senators BROWNBACK, BARRASSO, and JOHANNS. I would like to start out by saying how proud I am of the job our men and women in uniform who are stationed down there are doing. ADM Dave Thomas and his staff are doing an outstanding job, and their efforts need to be recognized. These are the kinds of individuals who make America great and who keep us safe.

This is the type of facility where you do not have a true understanding of how well run it is until you go down there and see it in person for yourself. I would actually encourage our President to go down and see firsthand what Guantanamo Bay is like, what the facility is like, how the prisoners are treated down there, and how well our service men and women in uniform are preforming.

As we are all aware, 6 months ago, President Obama set an arbitrary timeline of January 2010 to close Gitmo. It is now mid-June, and it appears he is no closer now than he was back in January of this year in identifying what his plan is. We still have seen little more than political rhetoric and no concrete plan of how to deal with the prisoners currently being housed at Gitmo.

My question to the administration is: Why are we rushing to close this world-class facility without first having a plan in place? The administration should work with Congress on a bipartisan basis to first come up with a plan, if a plan is even possible, and then proceed from there.

Included in this population are critical figures involved in the 9/11 attacks on the United States and the bombings of a U.S. warship, the USS *Cole*, and also terrorists captured from the battlefield in Afghanistan. As I stated earlier, one of the most deadly terrorists who was formerly at Gitmo and is directly responsible for the deaths of 224 individuals is now in the United States.

On our trip, we were able to see the security measures that have been put in place to keep these evil individuals from escaping or doing harm. These individuals do not view this war we are in as over. A document that was found in an apartment of an al-Qaida operative in Manchester, England, appropriately entitled the ''Manchester Document,'' lays out how terrorists should act if captured.

According to the Manchester Document, if an individual is detained, he should ''insist on proving that torture was inflicted on him. . . .'' Whether it was or not, they want to use the press. They want to try to show that torture was used on them.

According to this document, they want to ''take advantage of visits from outsiders to communicate with brothers outside the prison and exchange information that may be helpful to them in their work outside the prison. . . .'' They are to ''master the art of hiding messages . . . and provide information about the enemy's strengths and weaknesses, movements of the enemy and its members.''

The terrorists practice this doctrine on a daily basis. In addition, on a regular basis, they abuse our troops down at Guantanamo Bay. It is not the other way around.

A spokesman for the Pentagon stated that 14 percent of the over 500 who were released from Guantanamo Bay have returned to some sort of terrorist activity—14 percent. Some people say: Boy, that is a very low recidivism rate. But if we think about it, these are mass murderers and evil individuals. These are people who want to set out to destroy our country, our way of life, and kill as many Americans as they can. Do we want to transfer or release some of these individuals even if only 14 percent of them return? The lives of American troops are at stake.

By the way, the people who were released early, the over 500, those are the people we actually thought were safe. The people who are still there are the most dangerous and deadly.

One of the people who was transferred detonated a car bomb in Iraq.

Another is now a leading al-Qaida operative in Yemen. As I said before, these were supposedly the safe ones.

What would happen if those currently at Gitmo returned to the battlefield?

This document and the actions of those detained at Guantanamo Bay illustrate what some in this Congress seem to have forgotten. We, as a nation, are still at war. They are trying to kill Americans and destroy our very way of life. The prisoners at Gitmo realize this. Our troops realize this. It is time that we in Washington, DC, wake up and realize it as well.

The facilities at Gitmo are state of the art and are some of the most impressive I have ever seen. After touring the facilities down there, I believe it would be next to if not impossible to recreate those facilities in the United States, partially because of the physical location of the facility.

Guantanamo Bay is also the appropriate place to conduct military commissions. The privacy and seclusion of the unique courtroom facilities that have already been built there allow classified information to be protected and allow privacy for the 9/11 families who are grieving and have chosen to watch the proceedings down there. Too often, we forget about those individuals, the families of the 9/11/01 victims.

Transferring these hardened terrorists to facilities in the United States would make each of the facilities where they are transferred to, and the communities in which they are situated, terrorist targets. Let me repeat that.

Transferring these hardened terrorists to facilities in the United States would make each one of the facilities they are transferred to and the communities in which they are situated terrorist targets.

Would you like to own a small business, a gas station or a convenience store around one of these prisons that house terrorists? I know I wouldn't.

Another observation that struck me while I was down at Guantanamo Bay was the care and treatment of the detainees. Every—every—effort is made to ensure their religious rights are respected. During my visit to the facility, we even paused as part of our tour out of respect for prayer time of the detainees.

In addition, there are various programs and resources to provide detainees with instructional training and social recreation. Listen to these statistics.

Available to the detainees are over 13,000 books for them to read, 910 magazines, and various newspapers in different languages that are distributed weekly. They have access to a vast collection of DVDs for the detainees. It is almost like they have Netflix down there. They also have satellite television, including Al-Jazeera. Detainees are permitted quarterly phone calls to family members and have received or sent over 22,000 pieces of mail, including privileged attorney-client mail. Finally, we offer literacy classes, second language classes, and art classes for the detainees. These detainees are provided better health care than a lot of Americans are.

Does any of this sound like abuse? Does any of it sound like abuse?

In his first 6 months, President Obama has had to make some tough decisions. Some of these decisions, such as his Afghan policy, I publicly supported. He needs to realize, though, that on this issue of transferring these hardened terrorists to the United States there is strong bipartisan opposition. If the President were to go down to Gitmo, tour the facilities, and to be completely honest with himself, I believe he would come to the same conclusion I did. In the end, there are no superior alternatives to Guantanamo Bay.

The administration must answer this question: How does closing Guantanamo, especially without a plan, make the American people safer?

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The Senator from Arizona.

HEALTH CARE REFORM

Mr. KYL. Mr. President, I commend my colleague from Nevada for his remarks and I want to associate myself with them.

I want to speak to health care and the reform that we are attempting to achieve here in Washington. Little disagreement exists about the need for health care reform. A routine trip to the doctor's office can be surprisingly expensive, and many fear if they lose their jobs or even if they switch jobs, they will be left without health care. Others who are unemployed may be wondering how they can afford to see a doctor at all. So the question is, How can we reform health care so that everyone has access to high quality care without changing what works for millions of Americans?

President Obama wants to centralize power in Washington, to change the way health care is obtained by all. He would create what he calls a public option. This would not be an insurance program run by the public but one run by the Federal Government; that is to say, bureaucrats here in Washington, and I believe it would result in a one-size-fits-all government system that would depend upon complex rules and financing schemes, some kind of Federal health board and, of course, higher taxes. It would also inevitably create waiting lists for treatment and denial of care for many. Why? Because the Federal Government resources are not unlimited, so health care for some will have to be delayed or denied to keep spending in check.

The plan the senior Senator from Massachusetts has put forward would create a medical advisory council to determine what treatments people should get and when they should be treated. The goal of this medical advisory council, again, would be to control spending, not to ensure that everyone gets care when they need it. It could tell Americans when they can get their treatment and what medications they can and cannot have. The plan of the Senator from Massachusetts would also offer subsidies to those whose incomes reach 500 percent above the poverty line.

President Obama has said that if new government-run health care is created, you won't have to use it if you prefer your current plan. That is not the way the legislation is being written. The way the legislation is being written in the Finance Committee is that after your contract expires—and it is usually an annual contract—your insurance is gone, and your insurance company must begin to abide by a new set of Federal rules and regulations. That means you will not have the same policy you had before.

Moreover, the government-run care would quickly crowd out other insurers. Employees who have insurance through their company could be forced into the government plan if their employer decides it is simpler or cheaper to pay a fine to the Federal Government and eliminate the coverage. The company might reason: Why bother doing the paperwork when we can tell people to get on the government-run plan? That is exactly what the health experts say will happen.

The Lewin Group has estimated that 119 million people will shift from a private plan that they currently have onto this new government-run plan if it is created. That would affect two-thirds of the 170 million Americans who currently have private insurance, all but ending private insurance in this country.

First, we have the takeover of the auto companies and banks and AIG and student loans and now health care. That is apparently the agenda at play here.

Republicans believe that health care reform should make health care affordable and portable and accessible. That last point is often overlooked. Health care needs to be accessible. People need to get the care they need when they need it, and what the doctor prescribes for them rather than what a bureaucrat says they can have. Access to health care does not mean access to a waiting list. Individuals and families, not the Federal Government, should control decisions about their health care. The principles of freedom and choice should apply here. The government should not eliminate your choices and get between you and your doctor.

I am not sure why some are embracing government-run insurance when those programs have created so many problems in Canada and the United Kingdom. Many people think that Canadians and Europeans get the same quality of health care Americans get but pay less. That is not true. The stories you hear from individuals in those

countries about months- and years-long waiting lists and denial of care are not cherry-picked scare stories. They are commonplace. People often have to wait months for an MRI or a dental procedure or a hip replacement that they urgently need.

According to a new study by the Fraser Institute, which is a Canadian-based think tank, the average wait time for treatment from a specialist in Canada is 18.3 weeks. That is the average waiting time. Stop and think for a moment. You may have had your physician say, I think you have something very drastically wrong with you and I think you need to see a specialist to confirm whether that diagnosis is true, but you are going to have to wait on average 18 weeks for the specialist to see you.

Some people then say, well, at least everybody in Canada has a doctor. That is also not true. That same study reports that 1.7 million Canadians—and that is out of a country with a population of 33 million—were unable to see a family physician in the year 2007. Let me repeat: 1.7 million people couldn't even see a family doctor, and that number does not include those who have a doctor and are on a waiting list, so add the wait times. The bottom line is that having a government-run plan does not guarantee that everyone will have access to a doctor or to medical care. Indeed, it chokes access.

There are some Canadian doctors who are taking action because of this. Private hospitals are sprouting up all over Canada. Dr. David Gratzer, who is a physician, recently wrote an article in the Wall Street Journal about the story of another physician, Dr. Brian Day of Vancouver. Dr. Day, who is an orthopedic surgeon, grew tired of the government cutbacks that reduced his access to an operating room, while at the same time increasing the number of people waiting to see him. So he opened a private clinic, the Cambie Surgery Center, which employees more than 100 doctors. Public hospitals send him patients because they are too busy to treat them. The New York Times has reported a private clinic is opening each week in Canada.

Think about that. This is in response to a wonderful health care system? No, it is in response to a health care system that denies care to patients.

Opening a private clinic that gives health care access to more people, of course, is a noble thing to do, and I commend Dr. Day, but the success of these clinics also shows that many people who can get out of government-run health care will do so.

Americans do not deserve or want health care that forces them into a government bureaucracy that will delay or deny their care and force them to navigate a web of complex rules and regulations. They want access to high-quality care for their own families and for their neighbors. They want to pick their own doctors, and they do not want Washington to dictate what care they can and cannot get for their families.

On a personal note, none of us in the Senate or in the gallery or anybody who may be watching us, I suspect, cares more about anything in the world—other than perhaps their own freedom—than the health of their family. If there is a health emergency right now, we will all drop anything we are doing to provide whatever health care is needed for our family. We don't want anybody to stand in the way of that. But the bottom line is that it is inevitable; when government wants to control the cost of providing health care, and it has control, what it will do is to either deny information to people about what options are available, as happens in Germany, for example; delay the care, which is frequently what happens in Canada; or what frequently happens in Great Britain, where they have a board that makes these decisions, they deny the care altogether because it is simply too expensive for what they consider the value you get out of it. For example: If you are over a certain age, then you are not likely to have an operation such as a hip operation or a knee operation. There are other restrictions that apply as well.

We don't want that in America. We don't want the government in Washington saying that because we want to save money, you can't get care. I would also remind folks that the alternative that is being created in Canada—these private clinics—is not available under the one government-run program we have in America—the Medicare system. We also have a veterans' care system. But under Medicare, there is no alternative. You can't have private care. If you are on Medicare, and you go to a doctor who serves Medicare patients, it is against the law for him to treat you and then charge you individually for that. Under Medicare, it is either Medicare or no care. That is the law.

I know because I tried to get it changed. We tried to get something called private contracting, which would be the same as that alternative in Canada—the private clinic. We tried to get that for Medicare, so that if you were not satisfied with what Medicare gave you, and you wanted to speed it up or get a private doctor, even if he charged you whatever amount he charged you, you would have the right to do that. No. What Congress did was to say—in the middle of the night, in a conference committee—that you cannot do that. Only if a doctor says in advance, I will not treat Medicare patients for at least 2 years is he able to provide that care to you.

So we have a perverse incentive. If you want to take care of people outside of Medicare, you have to agree not to treat Medicare patients. And since we have so many physicians deciding not to take Medicare patients, that is the wrong incentive. We should be encouraging them to take more Medicare patients and at least allow the option that people in Canada have.

The bottom line is, Washington-run health care is not a good idea, and Republicans are not going to support legislation that includes Washington-run insurance companies or that gets in between the physician and the patient and interferes with that important relationship to deny or delay care.

The PRESIDING OFFICER. The Senator from New Mexico.

NOMINATION OF HILLARY TOMPKINS

Mr. BINGAMAN. Mr. President, I come to the floor today, as I did on June 2, to urge quick action on the nomination of Hillary Tompkins to be the Solicitor in the Department of the Interior. That is an important job in this country and in the Department of the Interior, and the President has chosen well in choosing Miss Tompkins to be the Solicitor. She has broad experience in natural resource issues. She is extremely well qualified in all respects. She was chief counsel to the Governor of New Mexico, Governor Richardson, until recently, where she demonstrated her ability to lead a team of lawyers in that position and to provide sound legal counsel. So it is unclear to me why anyone would be objecting to her being approved as our Solicitor.

When I came to the floor on June 2, about 8 days ago, and talked about this subject, I asked unanimous consent that we proceed to executive session, that her nomination be confirmed, and that we advise the President of our action and the Senate go back to other business. Senator MCCONNELL, on behalf of the Republican Members in the Senate, objected and said that—I think his specific response was they were still working on this. Let me quote him. He said:

> We have not been able to get that nomination cleared yet on this side, but we will be consulting with the Republican colleagues, and at some point let him know whether it is possible to go forward.

I assume the word ''him'' in that quote refers to me. At any rate, he objected. That was disappointing. But I am even more disappointed to announce or to call attention to the fact that we still are not able to clear Miss Tompkins for this important position. I think it is unfair to her, I think it is unfair to our former colleague, now Secretary of the Interior Salazar, who needs a capable person in this position. We should not be standing in the way of that occurring. I think his ability to serve the people of the country will be improved by having a good solicitor in that office and we should get on with the job of confirming that nomination.

At the time I was urging action on her nomination before, I was advised that there were two Senators who had objections. Senator COBURN had put a hold on the nominee because of concerns of one kind or another—I don't know the specifics—and I believe Senator BUNNING had concerns as well. I have now been advised that both of

those Senators have withdrawn their holds and are now satisfied.

Senator BUNNING had written a letter to Secretary Salazar raising concerns about coal mining and mountaintop-removal-related issues. Secretary Salazar responded to that letter on June 4. As I understand it, Senator COBURN also wrote. His letter was to Miss Tompkins, raising questions about whether she was in fact committed to enforcing the law when she was the Solicitor. She wrote him back and said she is clearly committed to enforcing the law, which of course would be part of her oath of office.

Based on those exchanges of letters, I am informed that both Senator BUNNING and Senator COBURN are satisfied that her nomination can go forward at this time.

Mr. President, I ask unanimous consent to have printed in the RECORD the correspondence between those two Senators and Secretary Salazar and the nominee Hillary Tompkins, following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BINGAMAN. Those concerns have been resolved. I am not clear as to what the continued problem is, why we cannot get this nomination cleared. I raise it at this point. I put people on notice, or the Senate on notice, if we are not able to get it cleared I will once again come to the floor and ask unanimous consent later this week for us to proceed to executive session and to confirm that nomination.

I think this is a highly irregular process to just hold someone hostage for some totally unrelated concern which she has no ability to control. If there were some problem with this nominee, if there were some objection to her qualifications, clearly that would be a different matter. But as far as I know there is no objection to her qualifications. There is no problem with this nominee or any statements she has made or any action she has taken. On that ground, I think we need to move quickly to confirm her nomination. I hope my colleagues will agree and will allow that to happen later today.

I yield the floor.

EXHIBIT 1

U.S. SENATE,
Washington, DC, June 3, 2009.

HILARY TOMPKINS,
Department of the Interior,
Washington, DC.

DEAR MS. TOMPKINS, As you know, on May 22, 2009, President Obama signed into law the Protecting Americans from Violent Crime Act. This act was overwhelmingly approved in a bipartisan fashion in both the Senate and the House of Representatives as an amendment to the Credit Card Accountability Responsibility and Disclosure Act of 2009, and will take effect in February, 2010.

The act states, ''The Secretary of the Interior shall not promulgate or enforce any regulation that prohibits an individual from possessing a firearm including an assembled or functional firearm in any unit of the National Park System or the National Wildlife Refuge System if—

(1) the individual is not otherwise prohibited by law from possessing the firearm; and

(2) the possession of the firearm is in compliance with the law of the State in which the unit of the National Park System or the National Wildlife Refuge System is located.''

Forty-eight states protect the rights of their residents to carry a concealed weapon. Properly implemented, the Protecting Americans from Violent Crime Act should, for the first time, also protect the individual's right to carry and possess firearms in all national parks and wildlife refuges, in accordance with state and federal law.

As Solicitor of the Department of the Interior, will you commit to ensuring the law is implemented in a way that robustly protects the rights of law-abiding gun owners, as Congress clearly intended? Will you also commit to vigorously defend this law against hostile litigation?

Thank you for your desire to serve our great country. I look forward to receiving your response by Friday, June 5, 2009.

Sincerely,

TOM COBURN,
U.S. Senator.

June 5, 2009.

Hon. TOM COBURN, M.D.
U.S. Senate,
Washington, DC.

DEAR SENATOR COBURN: Thank you for your letter of June 3, 2009, containing questions to me that relate to the Protecting Americans from Violent Crime Act, which was included in Public Law 111–24 and will take effect in February 2010.

Following the enactment of Public Law 111–24, the Secretary announced that the Department would follow Congress's directive and implement the new law when it takes effect. If confirmed as Solicitor, I will be dutybound to uphold and defend the Constitution and laws of the United States, including this particular law.

With regard to defending this law against legal challenges, the Attorney General of the United States is charged by statute with representing the United States in all legal matters. If confirmed, I will commit to working closely with the Department of Justice in connection with any defense of this Act and all other federal laws.

Sincerely,

HILARY C. TOMPKINS.

U.S. SENATE,
Washington, DC, June 4, 2009.

Mr. KEN SALAZAR,
Secretary, Department Of Interior,
Washington, DC.

DEAR MR. SALAZAR: I am writing to express my continued concern about the Department of Interior's decision to reverse its stream buffer zone policy and ask the Department of Justice to file a plea with the U.S. District Court requesting that the current rule be vacated. Coal mining is a top energy issue to the Commonwealth of Kentucky and consequently I have an extreme interest in the stream buffer zone rule.

Aside from striking a balance between environmental protections, the now abandoned rule clarified a long standing dispute over how the Surface Mining law should be applied. Issuance of the rule represented the culmination of a seven year process that was thorough and well vetted. While I appreciate the comments that you and other members of the Department of the Interior have made regarding the importance of the role of our coal mining communities in our national energy landscape, I also believe that nearly a decade of examination of this issue should not be overturned lightly.

I respectfully ask for your full commitment to work with me as DOI determines how it will resolve the stream buffer zone matter. I further ask for a prompt written reply to this request. I appreciate your consideration and look forward to hearing from you. Please feel free to contact Sarah Timoney, of my staff, at 202–224–4343 should you have any questions.

Best personal regards,

JIM BUNNING,
United States Senator.

THE SECRETARY OF THE INTERIOR,
Washington, June 4, 2009.

Hon. JIM BUNNING,
U.S. Senate,
Washington, DC.

DEAR SENATOR BUNNING: Thank you for your letter dated June 4, 2009. regarding the lawsuit surrounding the Office of Surface Mining Reclamation and Enforcement's Stream Buffer Zone regulation.

The matter is currently in litigation. We have asked the Court to take action that will allow the 1983 Reagan Administration rule to continue in force in all of the states that have delegated authority under the Surface Mining Control and Reclamation Act. Kentucky. along with most states, currently follows the 1983 rule.

I will ensure that there is an opportunity for public input on the potential development of a comprehensive new stream buffer zone rule that would update and clarify the 1983 rule. We will keep you informed of our progress in this matter and welcome your suggestions.

As I have said many times, we must responsibly develop cOnventional energy sources, including coal. in order to achieve greater energy independence. I look forward to working together to achieve these goals.

Sincerely,

KEN SALAZAR.

Mr. BINGAMAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL PIPELINE SAFETY DAY

Mrs. MURRAY. Mr. President, this morning I rise to remind all of us of a promise our government has made to the American people. It is an unspoken trust that certain things in our lives and communities are taken care of, that we don't have to think much about because we trust our government to keep us safe.

I think most Americans turn on the tap each day and expect the water they drink to be safe, and they probably do not think a lot about it. We expect if there is an emergency we will be able to pick up the phone and dial 9–1-1 and someone will answer and send help to us.

That is exactly what the people who lived in Bellingham, WA, used to think about oil and gas pipelines, if they thought about them at all. But all of our senses of safety and innocence were shattered 10 years ago today when tragedy struck for three families, and an entire community came together to

grieve and to learn and eventually stand up and say: Never again.

June 10, 1999, was a quiet sunny day in Bellingham, WA. For a lot of the students there it was the last day of school for the year. That should have been how it remained—as a day when kids played and celebrated about the coming of summer. Unfortunately, due to a series of mistakes and neglectful actions, it is now remembered as a day of fear and loss that the community still grieves.

Ten years ago today, around 3:30 in the afternoon on the west coast, a gasoline pipeline that ran through Bellingham, underground and near Whatcom Falls Park, ruptured, releasing more than a quarter of a million gallons of gasoline into Whatcom Creek. That gas ignited, sending a huge fireball racing down the entire creek, destroying everything in its path for more than a mile. It created this huge plume of smoke that rose more than 20,000 feet into the air.

The photo behind me was taken just moments after that explosion. Minutes before this, it was just a quiet creek, and this is what it looked like. That dramatic explosion took the lives, tragically, of three young people. Stephen Tsiorvas and Wade King were playing along the banks of the creek when this tremendous fireball ran across the water and set everything around them ablaze. They were both badly injured, and Stephen threw Wade into the creek and jumped in himself to try to soothe their burns. The boys were burned over 90 percent of their bodies and both died the next day. They were both just 10 years old.

The same afternoon, the same time, 18-year-old Liam Wood, who had just graduated from high school 5 days earlier, was fly fishing along this creek. He was overcome by the fumes, lost consciousness, and drowned. Stephen, Wade, and Liam were innocent victims of a horrific accident. But it was an accident that could have been and should have been prevented.

Pipeline networks stretch across the entire country. They run under our homes, they run by our schools, and our offices. Most people do not even know they are there. In fact, former Bellingham Police Chief Don Pierce, who was on this scene that day back in 1999, was recently quoted as he said:

> As I was standing there none of it made any sense because creeks don't catch on fire. I don't think I knew that there was a gas pipeline that ran under there.

The chief of police didn't know there was a gas pipeline underneath.

Nationwide, the Office of Pipeline Safety oversees more than 2.3 million miles of pipeline that transports hazardous liquids and natural gas under communities across the country. They perform a very important service, bringing oil and essential products to our homes and businesses.

Prior to this accident in Bellingham, WA, I rarely heard about them myself and, like most Americans, I just assumed they were safe. At first I thought the Bellingham explosion was a fluke, something that never happens. Then, when I started to investigate this issue, I was astonished by what I learned. It turned out that what happened in Bellingham that day was not an isolated occurrence. In fact, it was not even rare.

According to the Office of Pipeline Safety, from 1986 until the time of this accident in 1999, there had been more than 5,500 incidents resulting in 310 deaths and 1,500 injuries.

Not only had these accidents destroyed families, they had destroyed the environment. At that time, 6 million gallons of hazardous liquid were being released by these incidents every year—6 million gallons. That is like having an oil spill the size of the Exxon Valdez disaster every 2 years. The environmental damage was estimated to cost $1 billion.

In addition to this horrific loss that was sustained by these three Bellingham families, this explosion caused massive environmental damage. In fact, I had been scheduled to be at this exact site just a few weeks later to dedicate a great, newly restored, salmon spawning ground. When I went there and saw the damage after the explosion, I was shocked. That blast had destroyed all the plant and animal life in the creek, and a once very lush and diverse habitat had been burned to ashes.

Again, our community was not unique. At that time, on average, our Nation was suffering one pipeline accident every single day. While Bellingham may not have been unique in our tragedy, we were one of a kind in our response. Today, 10 years after the unthinkable happened, the story of the Bellingham natural gas explosion is also a story of how a community came together to tackle a nationwide problem and protect other Americans from coast to coast. As we together learned about the problems with inspection and oversight of our national pipeline system, the community channeled their grief into action.

Through research, I found out there were inadequate laws, insufficient oversight, too few inspections, and not enough trained inspectors, as well as a lack of awareness about these pipeline dangers. I learned one of the most important public safety offices, the Office of Pipeline Safety, was underfunded and neglected.

I asked the inspector general of the Department of Transportation to investigate the Office of Pipeline Safety and provide recommendations for how we could make this system work better, and I got to work writing a bill to improve pipeline safety in America.

It turned out to be a very long, hard fight to convince Congress this was something we had to do something about. The people of Bellingham stood with me every single step of the way. The parents of the young victims who were tragically lost on this date came to Washington, DC, to testify. So did Bellingham Mayor Mark Asmundson, and Carl Weimer, who is now head of the Pipeline Safety Trust.

That trust came into being thanks to the efforts of families and a group called SAFE Bellingham, that had organized to fight for the better pipeline safety and accident prevention measures.

So together with them and the great support of colleagues here in the Senate—Senator JOHN MCCAIN took a tremendous lead as chair of the committee, and I thank him for that; former Senators Slade Gorton and Fritz Hollings came together; Senator CANTWELL; Congress Members Jack Metcalf, RICK LARSEN; many others—together we worked very hard and passed and President Bush finally signed into law our legislation in 2002 to give the Office of Pipeline Safety the resources and the muscle it needed to keep Americans safe. That law improved the training of pipeline personnel. It raised the penalty for safety violations. It invested in new technology that was badly needed so we could improve pipeline safety. It improved the inspection practices and, importantly, expanded authority to our States to conduct their own safety activities.

So children today in every corner of our State are safer because the people of Bellingham stood up and said: We do not want this to happen ever again.

But I am here today to remind us, 10 years later, that the work is not done. While our law has greatly reduced the number of pipeline tragedies, there still are accidents every year. That is why I am on the floor today to introduce a Senate resolution designating June 10 as National Pipeline Safety Day. I am introducing this resolution to remind all of our communities to remain vigilant and to encourage their State and local governments to continue to promote pipeline safety and to create public awareness of the pipelines that run under and through every one of our communities.

For me, this 10-year anniversary is a reminder of a day of terrible pain we must never forget. But it is also a reminder that we cannot just assume someone else is taking care of things. We cannot slip back to where we were before. We have to stay vigilant and continue to work to improve the safety of our pipeline system. That is the best way we can continue to celebrate and honor Steven, Wade, and Liam.

I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 181 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant bill clerk read as follows:

> A resolution (S. Res. 181) designating June 10, 2009, as ''National Pipeline Safety Day.''

There being no objection, the Senate proceeded to consider the resolution.

Mrs. MURRAY. I ask unanimous consent that the resolution be agreed to,

the preamble be agreed to, the motion to reconsider be laid upon the table with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 181) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 181

Whereas there are more than 2,000,000 miles of gas and hazardous liquid pipelines in the United States that are operated by more than 3,000 companies;

Whereas gas and hazardous liquid pipelines play a vital role in the lives of people in the United States by delivering the energy needed to heat homes, drive cars, cook food and operate businesses;

Whereas, during the last decade, significant new pipelines have been built to help move North American sources of oil and gas to refineries and markets;

Whereas, on June 10, 1999, a hazardous liquid pipeline ruptured and exploded in a park in Bellingham, Washington, killing 2 10-year-old boys and a young man, destroying a salmon stream, and causing hundreds of millions of dollars in damage and economic disruption;

Whereas, in response to the pipeline tragedy on June 10, 1999, Congress enacted significant new pipeline safety regulations, including in the Pipeline Safety Improvement Act of 2002 (Public Law 107-355; 116 Stat. 2985) and the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (Public Law 109-468; 120 Stat. 3486);

Whereas, during the last decade, the Pipelines and Hazardous Materials Safety Administration of the Department of Transportation, with support from a diverse group of stakeholders, has instituted a variety of important new rules and pipeline safety initiatives, such as the Common Ground Alliance, pipeline emergency training with the National Association of State Fire Marshals, and the Pipelines and Informed Planning Alliance;

Whereas, even with pipeline safety improvements, in 2008 there were 274 significant pipeline incidents that caused more than $395,000,000 of damage to property and disrupted the economy;

Whereas, even though pipelines are the safest method to transport huge quantities of fuel, pipeline incidents are still occurring, including the pipeline explosion in Edison, New Jersey, in 1994 that left 100 people homeless, the butane pipeline explosion in Texas in 1996 that left 2 teenagers dead, the pipeline explosion near Carlsbad, New Mexico, in 2000 that killed 12 people in an extended family, the pipeline explosion in Walnut Creek, California, in 2004 that killed 5 workers, and the propane pipeline explosion in Mississippi in 2007 that killed a teenager and her grandmother;

Whereas the millions of miles of pipelines are still ''out of sight'', and therefore ''out of mind'' for the majority of people, local governments, and businesses in the United States, a situation that can lead to pipeline damage and a general lack of oversight of pipelines;

Whereas greater awareness of pipelines and pipeline safety can improve public safety;

Whereas a ''National Pipeline Safety Day'' can provide a focal point for creating greater pipeline safety awareness; and

Whereas June 10, 2009, is the 10th anniversary of the Bellingham, Washington, pipeline tragedy that was the impetus for many of the safety improvements described in this resolution and is an appropriate day to designate as ''National Pipeline Safety Day'': Now, therefore, be it

Resolved, That the Senate—

(1) designates June 10, 2009, as ''National Pipeline Safety Day'';

(2) encourages State and local governments to observe the day with appropriate activities that promote pipeline safety;

(3) encourages all pipeline safety stakeholders to use the day to create greater public awareness of all the advancements that can lead to greater pipeline safety; and

(4) encourages individuals throughout the United States to become more aware of the pipelines that run through communities in the United States and to encourage safe practices and damage prevention relating to gas and hazardous liquid pipelines.

Mrs. MURRAY. I thank my Senate colleagues.

I remind all of us as Americans that we have to be vigilant about what is around us, and when we are, we can make a difference in the lives of many people. The tragedy that occurred in Bellingham, WA, 10 years ago today will remain with me always and with the families of Bellingham and everyone else. But if we do our work and we remain vigilant and we fund the Office of Pipeline Safety and we insist on strong protections, we can protect families in the future. That is what is important about today.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH CARE

Mrs. MURRAY. Earlier this morning and, in fact, for the past several days, I have been interested to hear the comments from several of our Republican counterparts on the issue of health care. They are talking about Canada. Now, that is interesting. I appreciate that. Coming from a State close to Canada, we are very interested in what Canada does. But the discussion about what Canada does with its health care system has no bearing on what we are trying to do here in the Senate and Congress to reform the American health care system.

I guess, and I am only guessing, they want to talk about Canada because they do not want to talk about their real priority. Their real priority in coming out and inflating a discussion that should not even exist because it is not what we are talking about is simply because they want to protect the status quo. They want to protect the status quo in our health care system today. So they are out here talking about Canada. Well, that is not an option.

Let me tell you what we are doing because this is a very important discussion and a very important piece of legislation we are beginning our work on in the Senate. The status quo is not acceptable. This is an extraordinary moment of opportunity for real reform in health care. We here in the Senate are working very hard to come up with legislation that will reduce the cost for our families, for our businesses, and for our government.

Like all of my colleagues, I go home every weekend and I hear from individual families and people, from community leaders and businesses that the status quo is not acceptable. They will not tolerate a debate here in the Senate that goes for the status quo.

We here in the Senate are working on legislation that will protect people's choice of doctors, will protect their choice of hospitals, will protect their choice of insurance plan. If you like what you have today, that will be what you have when this legislation is passed. And that is very important. We are also working as a goal to assure that affordable, high-quality health care is available for every American. That is not the case today. Our work really builds on the existing employer-based system we have. We strengthen it. Again, if you like what you have, you will be able to keep it. Let me say this again: If you like what you have, when our legislation is passed and signed by the President, you will be able to keep it. But if you do not like what you have today in terms of your health care or if you do not have any health care insurance at all, we are going to provide new options for you so you have better health care.

Health care reform is not a luxury, it is an imperative today. Our health care system puts far too many Americans into crisis, and reforming it is an urgent necessity that demands our immediate attention. If we are going to restore the economy and secure our Nation's fiscal future, now is the time to make health care more affordable for American families and business and government at every level. Doing nothing is not an option.

As we move forward on this debate, I remind all of us, do not be distracted by superfluous arguments that do not apply to the bills we are discussing.

The bill on which we are going to move forward in the Senate makes sure that if you like what you have today, you are going to be able to keep it. But as you and I both know, Mr. President, too many people cannot afford their health care today or they are unable to get health insurance because their insurance company says: You have too many problems, we are not going to insure you, or they do not have insurance at all. We want to make sure health care is available to every American.

I am very proud of the effort that is going on as we speak. The health care committee is meeting today with our Republican colleagues to walk through our ideas we have now been putting together and get their input and ask for their options. We hope to work with

them side by side, and we are giving them every opportunity to do so, because health care has to work for all Americans.

So despite the rhetoric we heard on the floor this morning about Canada, which I love—Canada is a great country—that is not what we are doing here. We are moving forward on health care reform that is drastically needed. The status quo is not an option. Doing nothing is not an option. Stopping us from moving forward is not an option. This is an issue we are having the courage to take up and move forward on because America needs us to do that.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. DURBIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BEGICH). Without objection, it is so ordered.

Mr. DURBIN. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, we are considering a bill that would allow the Food and Drug Administration to regulate one of the most deadly substances for sale in America, tobacco, a substance responsible for 400,000 deaths, more than HIV/AIDs, for example, each year, more deaths than illegal drug use, alcohol use, motor vehicle accidents, suicides and murders combined, a substance responsible for $100 billion in health care costs every single year. I am glad we have finally reached this point. I hope we can pass this bill with a strong bipartisan vote. This moment has been coming for 20 years. There are Senators who deserve credit for where we are today in coming to this moment in history, none more than Senator TED KENNEDY. Senator KENNEDY has been our leader on this issue. Unfortunately, his personal health struggle prevents him from joining us regularly, and he may not be here for the vote today, but we wouldn't have reached this point without him. His dogged determination to reduce the number of tobacco-related deaths and illnesses in America has brought us to this moment in history. We will be voting with him in mind, as we should.

I thank Senator CHRIS DODD, who once again has stepped in, in an extraordinary way, as he did with credit card reform, passing a bill that had been decades in the making. Senator DODD, at the last moment, has been called in by Senator KENNEDY and has done a spectacular job to move this bill forward. I am hoping we can pass it and get it enacted into law. It will save lives. But we can't blame tobacco for all the faults in our health care system. There are many parts that need to be addressed.

The United States spends about 17 percent of its GDP, gross domestic product, on health care. This amounts to $7,400 per person on health care each year. We spend more than twice as much as any other country on Earth when it comes to health care. As of 2006, health spending in the United States was 90 percent higher than any other industrialized country. Health insurance premium increases consistently outpace inflation and the growth in family earnings. About 30 percent of America's poor people spend more than 10 percent of their income on health care. Since the beginning of this decade, health insurance premiums have gone up by 78 percent. Everybody knows this. No matter who one works for—private business, public entity—we know the cost of health insurance keeps skyrocketing. Wages have only gone up 15 percent in that period. People and families cannot keep up. Overall, 46 million Americans have lost their insurance. Many lose their insurance for periods during the course of a year because of changing jobs and losing jobs.

With the amount of money our country dedicates to health, the facts don't line up. Yesterday my colleague from Arizona, the Senate Republican whip, JON KYL, spoke about the problems with our health care system. I am glad he agreed there are problems to address. I need to clarify at least my view as to some of the things he said. Democrats in Congress are committed to working with President Obama to ensure that Americans can keep the health care they have, if that is their choice. Yesterday, Senator KYL said:

> If you are an employee of a small business, for example, when your insurance contract runs out—and those contracts are usually 1 year or 2 years—the bottom line is, even though you may like it, at the end of the next year, when the contract runs out, you don't get to keep it.

That is not accurate. I have to say Senator KYL is saying something that doesn't reflect the position of the President, nor any Democrat I know in Congress. We believe—and we stand by this—if you like your current health insurance plan, you will be able to keep it, plain and simple, straightforward.

Senator KYL alluded to specific frustrations felt by small business owners across the country. Believe me, I understand that issue better than some. I have been working with Senator BLANCHE LINCOLN of Arkansas, Senator SNOWE of Maine, and Senator KLOBUCHAR of Minnesota to come up with a plan so small business owners will be able to afford health insurance. I am happy to say that, at least at this moment, there is an indication the Finance Committee is considering our bill as part of their overall work product. As important as keeping your health plan, if you like it, if you are a small business owner, you find health premiums have increased 200 percent because you had one sick employee or one sick baby born to a family of one of your employees, we want to make sure you are no longer subject to the unfair practice of raising premiums for that situation. In today's system, at the end of the contract, small businesses are at the mercy of insurance companies that are in it for profit.

Earlier this week, I talked about a small businessman in Springfield, my hometown, who, in a span of just a few years, has seen his insurance premiums increase by 500 percent, though he has never turned in a claim. He has been forced to change his health care plan repeatedly. Because he is a small business owner, he has no bargaining power. What we are trying to do is ensure Americans are protected from this kind of price increase and that promised services are there when they need them.

My colleagues on the other side of the aisle continue to raise tactics of fear and concern to steer us away from the real issues at hand. Yesterday the Senator from Arizona talked about ''a new regime of regulation for the insurance companies.'' He expressed concern that Democrats in Congress are trying to control what health insurance companies are doing. If the Senator is talking about trying to take under control some of the practices of health insurance companies today, I would say it is long overdue. People know what happens when their health insurance premiums go up dramatically, even though they haven't turned in a claim. Folks know when health insurance companies say they are going to exclude preexisting conditions and your health insurance policy is virtually worthless because the problems you face in life can't then be covered. Folks know what it is to call that health insurance company and bargain or argue with some clerk over coverage. Changing those things, if that is what regulation is all about, is long overdue. It is time that customers, consumers, families, and businesses had a fighting chance when it came to health insurance companies.

We will hear plenty of speeches in the Congress in opposition to health care reform from a lot of people who are speaking for the health insurance companies. Why don't they come up and say it. If they want to come to the floor and say: We like the current system; we don't believe it needs to be changed; we don't believe there is a crisis facing us in terms of cost; we believe that health insurance companies are doing a great job and shouldn't have to change their ways, let that be their position. But it is a position that is indefensible with the vast majority of the American people. They understand we should be focusing on the best interests of patients and families, not the best interests of health insurance companies, nor the best interest of the Federal Government.

The bottom line is, we have to come up with health care reform which starts to reduce the cost of health care, making it more affordable, preserving quality, creating incentives for good health care outcomes, and focusing on

the family and the patient, not on the government agency.

I am encouraged my colleague from Arizona raised the issue of insurance contracts, given his concern with small businesses and access to health care. I think he would want attention paid to what insurance companies are doing to these small businesses. Earlier this year, the GAO released a report showing how little competition there is and what a tough time small businesses have to find health insurance. The medium market share of the largest carrier of the small group market was about 47 percent, ranging from 21 percent in Arizona to about 96 percent in Alabama. This leaves American small businesses with few choices. We want to change that. Those who come to the floor of the Senate defending the health insurance companies and saying they want no change in the health care system have to defend the indefensible. How do they explain what small businesses and families are facing now when they are trying to find affordable, quality health insurance?

If my colleague from Arizona wants to help small businesses, let him join us in the bipartisan bill Senators LINCOLN, SNOWE, KLOBUCHAR, and I are offering, the SHOP Act. By doing so, he will be working with us in committees to make a positive change.

I also wish to clarify one thing. Time and again, Senator MCCONNELL, on the Republican side, and Senator KYL have come to argue against government health care. They talk about it in the most general terms. What they are actually arguing against is a public option. What we hope to see come from all this debate about health care reform is lots of opportunities for America's families and businesses to shop for health insurance from private insurance companies but to have, in some circumstances, the option of a government-run plan they can choose, if they wish—voluntary choice. Of all the criticism heard on the floor about government health insurance, I have yet to hear Senator MCCONNELL or Senator KYL criticize Medicare. Why? Because 40 million Americans count on it. They know that were it not for Medicare, they couldn't afford health insurance. People live a whole lifetime without health insurance protection. Finally, when they hit age 65, they have Medicare, and they thank the Lord for that day.

Medicare does a great job. Medicare is a proven success. For over 40 years, Medicare has provided quality care to America's seniors and disabled, and we have seen the longevity, the life expectancy of seniors increase every year and their independence increase because they don't end up with a mountain of health debt to pass on to their children or have to exhaust their savings. If the Senator from Kentucky and the Senator from Arizona want to come to the floor and argue against Medicare, I welcome the debate. I wish to be here when they say that government health insurance program has failed us. It has not. It has worked. To create a public option for those across the country as part of health care reform is long overdue. We need to build on and improve Medicare, and we can do that.

We also have to make sure our health care system is based on science and the best outcomes, that we encourage preventive care, that we see those elements in our society where people can do things to make their own health care better.

Time and again you will hear the Republicans come to the floor as if they are part of the Travel Channel. They do not want to talk about America and the problems we face. They want to talk about England, New Zealand, Australia, Canada. They do not want to talk about the United States of America.

Well, it is time for them to come home and recognize that we can improve our health care system, letting Americans keep the health insurance they have if they want to keep it, making sure we start to bring costs down, making quality health insurance available, giving families the peace of mind that the cost of health insurance is not going to go through the roof and beyond their means. That is part of this debate.

Democrats are working to ensure Americans have real choice when it comes to their health care.

My colleague from the other side of the aisle referred to the public option as government-run insurance. He believes that the insurance industry is already regulated enough and that a public option is unnecessary.

I can tell the Senator that when I am receiving hundreds of letters and phone calls from constituents who cannot afford health insurance and who are seeing their premiums increase at alarming rates then I know our current health care insurance industry is not working for everybody.

In fact, according to a survey by the Kaiser Family Foundation, two-thirds of Americans support a public health insurance option similar to Medicare to compete with private health insurance plans.

Republicans want to preserve a broken system—one with escalating costs and no guarantee that policies won't be cancelled.

Rather than help insurance companies, Democrats want to put American families first and help those struggling with high health care costs.

A public option for health insurance offers the American people the security that the government is looking out for their best interests—just like Medicare does for our seniors.

My colleague is correct in that the Medicare Program needs some changes. I hope he will be supportive of the changes we will include in the health reform package.

Yes, we need to streamline the Medicare Program, restructure the delivery of care, and emphasize quality. We will do it and save costs. But we should build on what works, and despite what my colleague says, Medicare works.

According to a study by the Commonwealth Fund, 61 percent of elderly Medicare beneficiaries said they had received excellent or very good care, compared to only half of those with employer-sponsored healthcare.

This health care debate is Congress's opportunity to improve what we have and cut costs for the future.

Comparative effectiveness research will help us do just that. Senator KYL claims that the government may misuse comparative effectiveness research as a tool to ration or deny health care. His use of the word ''rationing'' is only a veiled attempt to defend the status quo no matter how ineffective.

Comparative effectiveness is a tool to expand Americans' access to high-quality health care, not restrict it. When we know which treatments are more effective than other treatments, people will want the best and avoid what is ineffective. But we need this research in order to distinguish the best from the not so good.

Our health care system rations care today based on ability to pay. If we reform our health system and identify which treatments are most effective, we can reduce that hidden rationing by making health care more affordable for everyone.

We need to learn what works and empower providers and patients to use that information. That is rationing— is a sensible component of the effort to build a high-quality, value-based, results-oriented health system.

We have serious problems in our health care system. This is America, and America needs a uniquely American solution to our Nation's health care problems. This is what Senate Democrats are committed to enacting.

Mr. KYL told some tragic stories of individuals in Canada and Britain whose experience with their country's health care system was not what we would define as quality health care.

I am sure we would like to think my colleagues on the other side of the aisle are sincerely concerned with the quality of health care around the globe, but I am more inclined to believe that this is their scare tactics trying to cloud the important issues once again.

In fact, Mr. KYL is following the specific instructions of Republican political consultant Frank Luntz.

Here it is, on page 2, talking point No. 5 from a memo given to my Republican colleagues to guide their way of framing the health care debate:

(5) The healthcare denial horror stories from Canada & Co. do resonate, but you have to humanize them. You'll notice we recommend the phrase ''government takeover'' rather than ''government run'' or ''government controlled.'' It's because too many politicians say ''we don't want a government run healthcare system like Canada or Great Britain'' without explaining those consequences. There is a better approach. ''In countries with government run healthcare,

politicians make your healthcare decisions. They decide if you'll get the procedure you need, or if you are disqualified because the treatment is too expensive or because you are too old. We can't have that in America.''

This debate is not about talking points or messaging or even other countries. Countries such as Canada and Britain have government-run healthcare and each has their unique set of good and bad aspects to the system. But, what we need to focus on is the people in our country. In our system today, insurance companies make the decisions and decide for people if they can get the procedure they need, or if they are disqualified because the treatment is too expensive. We can do better than that in America.

Patients and their doctors make the best decisions for a patient's health and wellbeing.

Every Senator in this Chamber can agree: Our health care reform efforts should be patient-centered.

I hope my colleagues on the other side of the aisle will work with Democrats to ensure a strong health care package for the American people.

Mr. President, I see two of my colleagues are on the floor. I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. First, Mr. President, I wish to thank my colleague and friend from Illinois for his outstanding words once again on health care, and on the fact that we need some kind of check on the insurance companies. Our colleagues offer none. They just point to Canada and England, as he mentioned, which is a totally different system than we are focusing on.

Second, I wish to thank my colleague from Oregon, who is doing a great job in his first year in the Senate, for his generosity so I could speak for a brief moment and share with my colleagues some words about an act of bravery that occurred in my State yesterday.

TRIBUTE TO KEN MITCHELL

Mr. SCHUMER. Mr. President, as the Senate right now debates some of the biggest national issues of our time, it is important to sometimes take a step back and look to some of the great acts that are happening every day in our towns, cities, and States. So I wish to call attention to an act of personal heroism—and that is the appropriate word; this man is a true hero—that took place in my home State of New York.

Yesterday morning, at the South Orangetown Middle School in Blauvelt, NY—a town in Rockland County about 45 minutes from New York City—a disgruntled man with a gun stormed into the office of the school superintendent. He grabbed the superintendent, Ken Mitchell, by the necktie and started threatening him and making demands. At least three gunshots were fired.

This is the kind of situation that would have scared most everyone. But, as we have learned now, Ken Mitchell is no ordinary person.

With his safety and the safety of his students on the line, he showed remarkable courage and wrestled the gunman down to the ground. He was able to grab the gun, kick it out of the way, and get the gunman pinned on the ground.

Usually when a SWAT team arrives at the scene of a crime, they are the ones to do the serious crime fighting. But this time, by the time they got there, they walked in on the school superintendent, who had already disarmed and pinned to the ground the dangerous criminal. To top it all off, Superintendent Mitchell even recognized one of the SWAT team members he had once coached as a kid on the local hockey team.

According to people on the scene, Mr. Mitchell was ready to get back to his office. As his brother-in-law said: ''his tie wasn't even messed up''—just another day on the job for another great New Yorker.

It should be no secret to anyone that this incident could very quickly have turned into something unspeakable. While the headlines today are ones of praise, they could have easily been ones of grief. And praise God they were not.

But as one of New York's Senators, I want to rise publicly and congratulate Ken Mitchell for his act of bravery and heroism. As a parent myself, I know what it is like to send kids off to school in the morning and hope and pray they will come back home safely.

It is people such as Ken Mitchell who make it easy for parents to know their kids are in good hands when they wave goodbye on the schoolbus and send Johnny or Jill off to school.

Ken Mitchell is a reminder that every minute of every day Americans are engaging in personal, quiet acts of heroism and bravery about which we should all be grateful. I am proud he is from my State. And I am proud that, if even for one moment, I can give him some of the recognition he deserves.

I am sure Superintendent Mitchell is back at work right now as if nothing happened. However, Superintendent Ken Mitchell, on behalf of all New Yorkers, all Americans, and parents everywhere, we say thank you. It is Americans like you that make us proud.

Mr. President, I yield the floor and once again thank my colleague from Oregon for yielding.

The PRESIDING OFFICER. The Senator from Oregon.

HEALTH CARE REFORM

Mr. MERKLEY. Mr. President, in the coming weeks we are going to be taking up what is probably one of the most vexing policy challenges of the last 50 years: how to reform our health care system and provide affordable, accessible health care to every single American. The goal could not be more straightforward: to guarantee access for every American—and the stakes could not be higher.

Our small businesses are collapsing under the weight of health insurance premiums. Last month, Oregon's largest insurer announced that the small business premium was going up 14.7 percent. That is on top of a 26-percent increase the previous year.

Large employers have the challenge as well. In a global economy, our broken health care system is a major competitive disadvantage. A greater share of the price of each car in the United States goes to health care than goes to steel. Mr. President, $1,500 of the cost of a car goes to health care, while across the border in Canada that price is zero. If we are going to compete in the world, we need a competitive, cost-effective health care system.

Of course, the biggest impact of our expensive, ineffective health care is most acutely felt around the kitchen table by our working families. With unemployment skyrocketing, virtually every family is reminded of how tenuous its connection is to health care—just one pink slip away from losing health care for their family.

Even those with insurance find health costs out of reach. Nearly half of the personal bankruptcies are by folks who have health insurance but who still could not manage all the health care costs because of when they became ill.

So this is what it boils down to: Working families in America, if they have health care, are concerned about the copays, they are concerned about being underinsured, and they are concerned about losing their insurance with the loss of a job. Those working families without health care are worried about getting sick and how they are going to get well if they are already sick.

This does not have to be the case. Health care is already devouring a large portion of our economy—18 percent of our gross domestic product—driving long-term Federal deficits and crowding out important State investments in education, in infrastructure, in social services, and pretty much everything else, and it is only projected to get worse as our population ages and health care inflation runs rampant year after year.

Put simply, if we do not reform our health care system, our economy will not thrive. That is a stark choice. Our economy and health care are tied together.

I know none of this is news to the Presiding Officer or to any Members of this esteemed Chamber. In fact, since President Truman, 60 years ago, called for health care for every working American as a national priority, we have been struggling to achieve that goal, and we have not yet gotten there. We have been periodically trying to fix up a fragmented, expensive, unfair system. But the fear of change has always overtaken the sense of possibility.

Those stakes and that history make it all the more critical that we seize this moment to meet the challenge President Obama has laid out for us and that we deliver on health care reform. This is the year—2009 is the year. This is the year to deliver on the promise to give every American access to affordable health coverage, to ensure that our economy has the same potential to be the engine of prosperity and opportunity and employment in this century that it was in the last century.

To make this happen, we have to find ways to make our health care system more affordable. We need to spend our health care dollar in smarter ways so we can put money back in the pockets of Americans and make our businesses more competitive.

The good news is we have lots of examples of how to do this right now. Extensive research has documented that the regions of our country which spend the most per person on Medicare, that is, 60 percent more than the regions with the lowest expenditures on health care, do not end up with better health care. The lowest spending regions actually have the same or better health care outcomes after adjusting for health histories, ages, and occupations. Plus, the beneficiaries are more satisfied.

So if we could take the practices and change them in the high-cost regions to match the low-cost regions, we would save, in Medicare alone, hundreds of billions of dollars.

Our job in this health care reform effort is to change some of the rules of the road so they encourage and enable all providers to act more like the high performers, those providing and delivering high quality, lower cost health care.

That is why this legislation needs to get us to start spending our health care dollars more wisely, investing more in prevention, investing in chronic disease management, building a research base about what works and what financial incentives are necessary to utilize those practices, rewarding care delivery built around coordination and efficiency rather than fragmentation and volume. We know these things work, and we need to make them the norm, not the exception.

We cannot stop the bleeding in our health care system costs without also doing something about the convoluted and broken health insurance marketplace. The first thing we need to do is to end the insurance company practices that penalize you if you are old or you are sick or you have ever been sick.

I am outraged when I hear stories from Oregonians about being turned away because of their preexisting conditions or their potential propensity toward certain diseases. The folks who need health care the most are being turned away the most, and that is not a health care system.

We have 50 million Americans without health care. That is what this conversation is about: taking that 18 percent of our gross domestic product we spend currently and finding a way to provide good quality coverage to every single American—not leaving out 50 million Americans.

Those are reforms that anyone can get behind. But I understand as we talk about other changes to how people get insurance, folks can get nervous. They can worry about the system changing in ways that are not beneficial to them. That is why I keep coming back to this point: We are going to provide the health care system we have for the people who have it, but we are going to improve it, we are going to improve it by making it more cost effective, so we can also provide health care to the 50 million who do not have coverage.

With these reforms, our citizens will have more choices. And choice in health care options is good. Instead of leaving individuals and small groups at the mercy of insurance companies providing expensive plans with very high administrative costs, those individuals and those small businesses will be able to participate in a marketplace that groups them together with millions of other Americans so they can benefit from the larger pool of health care participants.

This marketplace will resemble something very close to the list of options Federal employees have. When you become a Federal employee, you have an option of this plan or this plan or this plan. Well, that is what we are going to do. We are going to provide a list of plans citizens can choose from, being part of a larger pool. We are going to provide a list of plans small businesses can choose from and benefit from, being a part of a larger pool of the insured.

This is a structure we are familiar with as Members of Congress. What works for Members of Congress, what works for Senators will work for working Americans. These plans give apples-to-apples comparisons so citizens can pick the plan that fits their family the best. It will ensure minimum standards so our workers are not ripped off, and the access to the marketplace will come with premium assistance so strapped consumers can get help affording the premiums to obtain health care.

Given the track record of inefficiencies and cherry-picking by private insurers, I think it is imperative that consumers have multiple choices, including a public option. Public option is simply a way to describe what we are already providing to our seniors throughout this Nation: A public, organized plan, a very efficient plan.

Administrative costs of Medicare are around 2 percent, while the administrative costs for the individual applicants to the health care system for our small businesses is 30 percent. Why not let our individuals, why not let our small businesses benefit from a 30-percent improvement in the use of the health care dollar? This public option would compete on a level playing field with private plans, it would further expand choices for consumers, it would be a tool for keeping costs low, and it should be a part of any package we put forward.

One would think all of us in this room, hearing from our constituents in every corner of our States, would understand this whole conversation is about addressing one of the highest stress factors for working families in every part of this Nation, but there are opponents of this reform. My colleagues across the aisle hired a consultant, Frank Luntz, to prepare a plan to torpedo health care. This plan came out in April. This 25-page document is about how to kill any plan that is put forward. This goes on to say it doesn't matter what the specifics of the plan are, adopt language that attacks it and present it as the opposite of what it is. Because what this document says is that Americans want this health care reform, so you can't fight it head-on, you have to recharacterize it, reframe it.

What does this plan that has been put out to kill health care say? It says: Time is on our side. If we can slow the process down, we can kill it. Well, all windows of opportunity are open for a certain period of time and then they close, so I suppose that is smart advice if you want to kill health care, but if you want to do something for the 50 million Americans without health care, then we need to move forward quickly with health care reform.

This Republican document about how to kill health care says: Say the plan is centered around politicians. Say it is about bureaucrats. Say it is about Washington, DC.

Well, I am not sure what there is about providing health care options to 50 million working Americans who struggle every day to address the cost of health care, and often end up in personal bankruptcy, and forgo all kinds of other opportunities so their child can go to the doctor. That has nothing to do with bureaucrats. That has nothing to do with Washington. That has everything to do with family values and strengthening the foundation of our families.

This document about how to kill health care says: Bring in denial and horror stories from Canada or other parts of the world to suggest to people they will lose their relationship with their doctor; that somehow they will be jerked out of the arrangement they have found to be so satisfactory. Scare them. Scare the citizens of the United States.

Well, I can tell my colleagues that what is scaring the citizens of the United States is they can't afford their health care, and they want us to do something about it. Bringing up false horror stories that have no bearing on the plan before us to scare our citizens and make them worry even more is not responsible. What is responsible is to do something about a broken health care system.

This document has lots more about how to kill health care. It says: Take this and say this will destroy the personalized doctor-patient relationship. Take this and say this will create waste, fraud and abuse, and so on and so forth; every poll-tested set of words designed to decrease support and scare people into forgoing this once-in-a-decade opportunity or pass this once-in-a-generation opportunity we have to change the health care system.

One may think I am raising this document before my colleagues—this plan for how to kill health care—and that maybe it doesn't have any bearing on the real debate, but it absolutely does. These talking points are being echoed in this very Chamber—in this very Chamber—in order to kill health care.

Let's see. Here we go: Frank Luntz's memo—that is this memo on how to kill health care that came out in April—it says: Talking point No. 5: Health care denial horror stories from Canada and other countries do resonate, but you have to humanize them. You will notice we recommend the phrase ''government takeover'' rather than ''government-run'' or ''government-controlled.'' Why? Because government takeover sounds even scarier.

So what do we hear on the floor of this Chamber from our minority leader recently? I quote: ''Americans are concerned about a government takeover of health care, and for good reason.'' It goes on.

So recognize that is a point that is coming from a document about how to kill health care, not a responsible debate about the plan we have in front of us.

Let's take a look at another example in Frank Luntz's memo. His memo, talking points Nos. 3 and 4: Time is a government health care killer. Nothing else turns people against a government takeover of health care than the expectation that this plan will result in delayed and denied treatment. The arguments against the plan—now, note that this is about a plan that wasn't written; it is about any plan put forward. The arguments against this plan must also center around politicians, bureaucrats, and Washington. Note the emphasis on saying the plan will result in delays and denied treatment.

What have we heard on the floor of this Chamber from the minority leader? We have heard recently:

Americans don't want to be forced by bureaucrats—

That comes right out of these talking points—

to give up their private health care plan to be pushed into a Washington-run government plan.

Right out of those talking points. They don't want to wait 2 years for surgery, and they don't want to be told they are too old for surgery.

All of this straight out of this roadmap.

My friends, in the face of 50 million Americans without health care and with working Americans in every one of our States going bankrupt as they struggle with health care expenses, it is irresponsible to utilize a roadmap of rhetoric that comes from polling about how to scare people. That is irresponsible. What we need to do is lay out a plan on how we can create affordable, accessible health care for every single American, addressing one of the biggest factors that degrades the quality of life for our citizens across this Nation.

We have a unique opportunity. We have an opportunity because small business wants help with those 26-percent increases and those 14.7-percent increases in premiums they are having to pay and they are not able to continue paying them. Large businesses are asking for help to become cost competitive so we can restore manufacturing in our Nation and put people to work and rebuild the middle class and have successful international corporations operating out of America. Families around the kitchen table are asking for help today. They know how they have struggled. They know if they have health care they might lose it next week when they lose their job. They know if they have health care, they might not be able to make the copays if they have something serious happen with their child. They know if they don't have health care, they are going to have to forgo virtually everything else or perhaps forgo the treatment itself because they won't be able to afford to make those payments to the doctor or to the hospital.

This is the moment when families and small businesses and large businesses are coming together to paint a new vision to improve the quality of life and to strengthen the foundation of our families. Let us seize this moment.

I thank the Chair. I yield the floor.

EXTENSION OF MORNING BUSINESS

Mr. MERKLEY. Mr. President, I ask unanimous consent that the period for morning business be extended until 11:30 a.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Nebraska is recognized.

Mr. JOHANNS. I thank the Chair.

(The remarks of Mr. JOHANNS pertaining to the introduction of S. 1223 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. JOHANNS. Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. GILLIBRAND). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mr. DURBIN. Madam President, after the close of morning business, we will return to the Family Smoking Prevention and Tobacco Control Act. This is a piece of legislation which has been in the making for two decades or more which would finally say that tobacco is going to be regulated, as it should have been a long time ago.

For the longest time, the tobacco lobbyists were the most powerful lobby on Capitol Hill, and they managed to create an exemption in virtually every law so that no Federal agency could take a look at them and regulate them and basically know what we know about every product and service offered in America. They said: Well, the Food and Drug Administration shouldn't have any authority. The tobacco lobby argued: We are not really food and we are not really a drug. So they managed to wiggle their way through the Federal statute book and at the end of the day have virtually no regulation or oversight. Unfortunately, while they have been doing that, 400,000 Americans have been dying every year of tobacco-related disease. It is the No. 1 preventable cause of death in America today. It is a product which is sold legally and a product which kills with lethality. That is a fact.

We know from experience that the tobacco industry has a tough assignment. What kind of business can survive that loses 400,000 of its customers every year, customers who die because of addiction to tobacco-related products? They needed a marketing campaign. The problem was, if you tried to market tobacco products to adults, most of them had the good sense to say: That is not a smart thing to do; I am going to stay away from tobacco. So they had to change their marketing strategy. If you couldn't market to adults, you know the kids may be vulnerable, and that is where they went, with a vengeance, with the idea of addicting children to tobacco early in life, because, of course, tobacco products, with nicotine, are addictive. To some, it is a very strong addiction. They fight for a lifetime, with patches and a doctor's care and hypnosis and anything they can think of. Some people can shake it and move away from it; others spend a lifetime addicted. So the tobacco companies went after the kids. They knew if they could get their products in the hands of children, and children would try them, they would become the next generation of smokers and ultimately a future generation of victims of tobacco. So this deadly cycle began by the tobacco companies, and the Federal Government took a hands-off attitude.

Back in the 1960s, we created a little warning label on tobacco cigarettes. You see it on billboards. It is so small,

people don't notice it. It has become so commonplace, nobody even registers with the message it delivers.

For the longest time, we have argued that tobacco should be regulated, that the products that are sold in America should have an agency with oversight keeping an eye on them. The tobacco companies fought it off year after year.

Finally, with this new President, with this new Congress, we have reached the moment where we have a chance to pass this important legislation. This is a bill that will protect children and will protect America, and it will reduce tobacco use. The House passed their version last month with a wide majority, and now it is time for the Senate to act. Every day that we don't act, 3,500 American kids—children—will light up for the first time. That is enough to fill 70 schoolbuses of kids who will try cigarettes every single day for the first time. A thousand of those 3,500 will then become regular smokers. The addiction will begin.

Tobacco companies spend nearly $40 million every day to lure this new generation of customers with blatant deceptive advertising—promotions of candy-flavored cigarettes and advertising that is aimed directly at kids—all the while they are loading their products not just with tobacco leaf but with chemicals. They put in extra nicotine, incidentally. If there isn't enough nicotine naturally occurring in tobacco, they load it up so that your addiction becomes stronger, your craving grows, and your body demands more and more tobacco. It is time we put a stop to this marketing and give the Food and Drug Administration the authority to regulate this industry.

There are 43 million Americans who smoke today. People often say to me: Well, why don't we just ban this product? If I thought that would end smoking in America, I might consider it. But we know better. With 43 million Americans currently addicted, they are not going to quit cold turkey tomorrow. A black market would emerge, and then the next thing you know the underground economy would be sustaining tobacco. That would not be the result we are looking for.

In my home State of Illinois, about one out of five kids smokes. That means that every year 65,000 kids in Illinois try a cigarette for the first time, and almost 20,000 become regular daily smokers. These kids consume 34 million packs of cigarettes a year. There are 8.6 million people in the United States who currently suffer from tobacco-related disease. It is responsible for 90 percent of lung cancer deaths, one-third of all cancer deaths, and one in five deaths from cardiovascular disease. Approximately half of all continuing smokers will die prematurely as a result of the disease. Sadly, in Illinois, 317,000 kids alive today will eventually die from the smoking addiction which they started as kids.

Here is what the bill does. We put teeth in the law to restrict the marketing and sale of tobacco products to kids. We require tobacco companies to disclose the ingredients on their products. We require the Food and Drug Administration to evaluate any health claims for scientific accuracy and public health impact. We give the FDA the power to require companies to make changes to tobacco products to protect public health. And we require larger, stronger warning health notices on tobacco products. These are commonsense reforms that will start to reduce the terrible toll tobacco has taken on families all across this Nation. The FDA is the right agency to do this. It is the only agency that can bring together science, regulatory expertise, and the public health mission to do the job. Through a user fee on tobacco companies, the bill gives the agency the money it needs to conduct its new responsibilities.

This is a strong public health bill, and it is a bipartisan bill. After more than 10 years of effort, we have never been so close to giving the FDA the authority it needs to regulate tobacco. I urge my colleagues to resist any amendments that will weaken this bill or add provisions that might stop it from becoming a law. FDA regulation of tobacco products is long overdue.

I can recall arriving on Capitol Hill as a new Congressman years and years ago. In the first orientation meeting we had as new Democratic Congressmen, one of the older Members of the House came in, closed the door, and said: I want to tell you something. When tobacco issues come up, we vote with the tobacco companies. That is for your friends in tobacco-producing States. You give them a helping hand, and someday they may give you a helping hand. That is the way it works.

Well, that was one of the first things we were told about being a Member of Congress; tobacco was that important on the political agenda. Certainly for some Members from tobacco-producing States, it may have been the most important thing that brought them to Capitol Hill. However, over the years, some of us wandered off of this agenda. I offered an amendment to ban smoking on airplanes and had the opposition of all of the leaders in the House of Representatives, Democrat and Republican. But it turned out that so many Members of the House flew in airplanes and couldn't stand this fiction of smoking section and nonsmoking section that they supported my amendment. So over 20 years ago we banned smoking on airplanes.

FRANK LAUTENBERG was my champion over here in the Senate and together we started a Federal policy that I might say kind of tipped one domino over and people started saying if secondhand smoke is dangerous on airplanes it is dangerous in other places.

That movement has grown in intensity. We have seen the kind of leadership at local and State levels that has continued to make it a potent force. But today is our chance. As I mentioned earlier, I am sure Senator DODD will join me saying we wish one of our colleagues were with us here today, and that is TED KENNEDY, who is home recuperating. TED KENNEDY was our champion and inspiration for years on this issue. He hung in there and fought for this when a lot of people gave up. TED never gave up. When it came to the issues in his heart and soul, he fought as long as he possibly could.

We continue that fight today and he handed the banner to Senator DODD, who has done an extraordinarily good job on this bill. He has been called into action in the Senate repeatedly. Just a few weeks ago we passed the Credit Card Reform Act after more than 20 years of trying. We finally got it done. It was a dramatic change in the law to protect consumers and families across America.

Today, with the passage of this—at least the movement of this bill forward toward passage this week—we are going to be able to protect millions of children and Americans from deadly tobacco-related disease.

I thank Senator DODD for his leadership. I commend this bill to our colleagues. This is our moment in history. Let's not miss it. Let's seize this opportunity to create protection for a lot of young people who will otherwise find you are compromised by this deadly tobacco product.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 1256, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 1256) to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, and to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes.

Pending:

Dodd amendment No. 1247, in the nature of a substitute.

Schumer (for Lieberman) amendment No. 1256 (to amendment No. 1247), to modify provisions relating to Federal employees retirement.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, as I understand it, we are going to have a vote at 12:30. I ask unanimous consent the time between now and 12:30 be equally divided between the minority and majority.

The PRESIDING OFFICER. Without objection, it is so ordered.

(At the request of Mr. DODD, the following statement was ordered to be printed in the RECORD.)

• Mr. KENNEDY. Madam President, later today, the Senate will vote to approve legislation that should have been enacted years ago—authority for the FDA to regulate tobacco products, the most lethal of all consumer products.

It has been a long and arduous path with many political obstacles. Fortunately, the legislative journey is nearing a successful conclusion. The House of Representatives overwhelmingly passed a nearly identical bill earlier this spring. In May, the Senate HELP Committee approved the FDA Tobacco bill with the support of a strong bipartisan majority. On Monday, 61 Senators voted to invoke cloture on the committee-passed bill. President Obama is anxiously waiting to sign it into law. Passage of the legislation is much more than a victory for those of us who have long championed this cause. It is a life saving act for the millions of children who will be spared a lifetime of addiction and premature death.

The need to regulate tobacco products can no longer be ignored. Used as intended by the companies that manufacture and market them, cigarettes will kill one out of every three smokers. Yet the Federal agency most responsible for protecting the public health is currently powerless to deal with the enormous risks of tobacco use. Public health experts overwhelmingly believe that passage of H.R. 1256 is the most important action Congress can take to protect children from this deadly addiction. Without this strong congressional action, smoking will continue at its current rate, and more than 6 million of today's children will ultimately die from tobacco-induced disease.

Smoking is the number one preventable cause of death in America. Nationally, cigarettes kill well over 400,000 people each year. That is more lives lost than from automobile accidents, alcohol abuse, illegal drugs, AIDS, murder, and suicide combined.

The American Cancer Society, the American Heart Association, the American Lung Association, the American Medical Association, the Campaign for Tobacco-Free Kids and eighty-six other national public health organizations speak with one voice on this issue. They are all supporting H.R. 1256 because they know it will give FDA the tools it needs to reduce youth smoking and help addicted smokers quit.

A landmark report by the Institute of Medicine, released 2 years ago, strongly urged Congress to ''confer upon the FDA broad regulatory authority over the manufacture, distribution, marketing and use of tobacco products.''

Opponents of this legislation argue that FDA should not be regulating such a dangerous product. I could not disagree more. It is precisely because tobacco products are so deadly that we must empower America's premier public health protector—the FDA—to combat tobacco use. For decades the Federal Government has stayed on the sidelines and done next to nothing to deal with this enormous health problem. The tobacco industry has been allowed to mislead consumers, to make false health claims, to conceal the lethal contents of their products, to make their products even more addictive, and worst of all—to deliberately addict generations of children. The alternative to FDA regulation is more of the same. Allowing this abusive conduct by the tobacco industry to go unchecked would be terribly wrong.

Under this legislation, FDA will for the first time have the needed power and resources to take on this challenge. The cost will be funded entirely by a new user fee paid by the tobacco companies in proportion to their market share. Not a single dollar will be diverted from FDA's existing responsibilities.

Giving FDA authority over tobacco products will not make the tragic toll of tobacco use disappear overnight. More than 40 million people are hooked on this highly addictive product and many of them have been unable to quit despite repeated attempts. However, FDA action can play a major role in breaking the gruesome cycle that seduces millions of teenagers into a lifetime of addiction and premature death.

What can FDA regulation accomplish?

It can reduce youth smoking by preventing tobacco advertising which targets children. It can help prevent the sale of tobacco products to minors. It can stop the tobacco industry from continuing to mislead the public about the dangers of smoking. It can help smokers overcome their addiction. It can make tobacco products less toxic and less addictive for those who continue to use them. And it can prohibit unsubstantiated health claims about supposedly ''reduced risk'' products, and encourage the development of genuinely less harmful alternative products.

Regulating the conduct of the tobacco companies is as necessary today as it has been in years past. The facts presented in the Federal Government's landmark lawsuit against the tobacco industry conclusively demonstrate that the misconduct is substantial and ongoing. The decision of the Court states: ''The evidence in this case clearly establishes that Defendants have not ceased engaging in unlawful activity . . . Defendants continue to engage in conduct that is materially indistinguishable from their previous actions, activity that continues to this day.'' Only strong FDA regulation can force the necessary change in their corporate behavior.

We must deal firmly with tobacco company marketing practices that target children and mislead the public. The Food and Drug Administration needs broad authority to regulate the sale, distribution, and advertising of cigarettes and smokeless tobacco.

The tobacco industry currently spends over thirteen billion dollars each year to promote its products. Much of that money is spent in ways designed to tempt children to start smoking, before they are mature enough to appreciate the enormity of the health risk. Four thousand children have their first cigarette every day, and 1,000 of them become daily smokers. The industry knows that nearly 90 percent of smokers begin as children and are addicted by the time they reach adulthood.

Documents obtained from tobacco companies prove, in the companies' own words, the magnitude of the industry's efforts to trap children into dependency on their deadly product. Studies by the Institute of Medicine and the Centers for Disease Control show the substantial role of industry advertising in decisions by young people to use tobacco products.

If we are serious about reducing youth smoking, FDA must have the power to prevent industry advertising designed to appeal to children wherever it will be seen by children. This legislation will give FDA the authority to stop tobacco advertising that glamorizes smoking to kids. It grants FDA full authority to regulate tobacco advertising ''consistent with and to the full extent permitted by the First Amendment.''

FDA authority must also extend to the sale of tobacco products. Nearly every State makes it illegal to sell cigarettes to children under 18, but surveys show that many of those laws are rarely enforced and frequently violated. FDA must have the power to limit the sale of cigarettes to face-to-face transactions in which the age of the purchaser can be verified by identification. This means an end to self-service displays and vending machine sales. There must also be serious enforcement efforts with real penalties for those caught selling tobacco products to children. This is the only way to ensure that children under 18 are not able to buy cigarettes.

The FDA conducted the longest rulemaking proceeding in its history, studying which regulations would most effectively reduce the number of children who smoke. Seven hundred thousand public comments were received in the course of that rulemaking. At the conclusion of its proceeding, the Agency promulgated rules on the manner in which cigarettes are advertised and sold. Due to litigation, most of those regulations were never implemented. If we are serious about curbing youth smoking as much as possible, as soon as possible; it makes no sense to require FDA to reinvent the wheel by conducting a new multiyear rulemaking process on the same issues. This legislation will give the youth access and advertising restrictions already developed by FDA the force of

law, as if they had been issued under the new statute. Once they are in place, FDA will have the authority to modify these rules as changing circumstances warrant.

The legislation also provides for stronger warnings on all cigarette and smokeless tobacco packages, and in all print advertisements. These warnings will be larger and more explicit in their description of the medical problems which can result from tobacco use. Each cigarette pack will carry a graphic depiction of the consequences of smoking. The FDA is given the authority to change the warning labels periodically, to keep their impact strong.

The nicotine in cigarettes is highly addictive. Medical experts say that it is as addictive as heroin or cocaine. Yet for decades, tobacco companies vehemently denied the addictiveness of their products. No one can forget the parade of tobacco executives who testified under oath before Congress that smoking cigarettes is not addictive. Overwhelming evidence in industry documents obtained through the discovery process proves that the companies not only knew of this addictiveness for decades, but actually relied on it as the basis for their marketing strategy. As we now know, cigarette manufacturers chemically manipulated the nicotine in their products to make it even more addictive.

An analysis by the Harvard School of Public Health demonstrates that cigarette manufacturers are still manipulating nicotine levels. Between 1998 and 2005, they significantly increased the nicotine yield from major brand-name cigarettes. The average increase in nicotine yield over the period was 11 percent.

The tobacco industry has a long dishonorable history of providing misleading information about the health consequences of smoking. These companies have repeatedly sought to characterize their products as far less hazardous than they are. They made minor innovations in product design seem far more significant for the health of the user than they actually were. It is essential that FDA have clear and unambiguous authority to prevent such misrepresentations in the future. The largest disinformation campaign in the history of the corporate world must end.

Given the addictiveness of tobacco products, it is essential that the FDA regulate them for the protection of the public. Over 40 million Americans are currently addicted to cigarettes. No responsible public health official believes that cigarettes should be banned. A ban would leave 40 million people without a way to satisfy their drug dependency. FDA should be able to take the necessary steps to help addicted smokers overcome their addiction, and to make the product less toxic for smokers who are unable or unwilling to stop. To do so, FDA must have the authority to reduce or remove hazardous and addictive ingredients from cigarettes, to the extent that it is scientifically feasible. The inherent risk in smoking should not be unnecessarily compounded.

Recent statements by several tobacco companies make clear that they plan to develop what they characterize as ''reduced risk'' cigarettes. Some are already on the market making unsubstantiated claims. This legislation will require manufacturers to submit such ''reduced risk'' products to the FDA for analysis before they can be marketed. No health-related claims will be permitted until they have been verified to the FDA's satisfaction. These safeguards are essential to prevent deceptive industry marketing campaigns, which could lull the public into a false sense of health safety. Only by preventing bogus claims will there be a real financial incentive for companies to develop new technologies that can lead to genuinely and verifiably safer products.

This legislation will vest FDA not only with the responsibility for regulating tobacco products, but with full authority to do the job effectively. It is long overdue.

Voting for this legislation today is the right thing to do for America's children. They are depending on us. By passing this legislation, we can help them live longer, healthier lives. I know that the Senate will not let them down.●

Mr. DODD. There are over 1,000 organizations that support H.R. 1256. I ask unanimous consent that some of these letters of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARCH 26, 2009.

Hon. HENRY WAXMAN
Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN WAXMAN: We are writing to endorse the ''Family Smoking Prevention and Tobacco Control Act,'' which you introduced on March 3, 2009. If enacted, this legislation will make a significant contribution in our national campaign to reduce the harm caused by tobacco and to protect our children and public health.

As you are aware, in the next 365 days, more than 400,000 Americans will die prematurely from tobacco use and more than 450,000 children, 12 to 17 years old, will become regular, daily smokers and part of the next generation of grim statistics. This year, under your leadership, the United States Congress has an opportunity to bring about fundamental change by enacting your legislation to regulate tobacco products and their marketing.

The ''Family Smoking Prevention and Tobacco Control Act'' is the kind of tobacco regulation that makes sense and that is long overdue. It would prevent the tobacco companies from marketing to children. It would require disclosure of the contents of tobacco products, would authorize FDA to require the reduction or removal of harmful ingredients, and would require FDA to promptly address the complex issues raised by menthol tobacco products. It would prohibit terms like ''light'' and ''low tar'' which have been used to mislead smokers into thinking that those tobacco products are less harmful. And it would force the tobacco companies to scientifically prove any claims about ''reduced risk'' products.

Some have questioned whether FDA can take on this important new task and whether it will have sufficient resources. Having thoroughly studied this issue, we believe that the bill gives the FDA the resources it needs to do the job properly; and, without question, the FDA is the right agency to implement this new regulation because it has a public health mandate and the necessary scientific and regulatory experience.

The Congress can change the course of this public health crisis by voting to enact your legislation to provide FDA with authority over tobacco products. This is a strong bill and would significantly advance the public health.

Sincerely,

DONNA E. SHALALA,
Former Secretary of Health and Human Services.
DAVID KESSLER,
Former Commissioner of the Food and Drug Administration.
DAVID SATCHER,
Former Surgeon General.
TOMMY G. THOMPSON,
Former Secretary of Health and Human Services.
JULIE L. GERBERDING,
Former Director of the Centers for Disease Control and Prevention.
RICHARD H. CARMONA,
Former Surgeon General.

AMERICAN CANCER SOCIETY,
CANCER ACTION NETWORK,
Washington, DC, May 18, 2009.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Health, Education, Labor and Pensions, U.S. Senate, Washington, DC.

DEAR CHAIRMAN KENNEDY: On behalf of the volunteers and supporters of the American Cancer Society Cancer Action Network (ACS CAN), the advocacy affiliate organization of the American Cancer Society, we thank you for your leadership on The Family Smoking Prevention and Tobacco Control Act, S. 982. We fully support this legislation to give the U.S. Food and Drug Administration long-needed authority to regulate the production, marketing and sale of tobacco products.

Every year, more than 400,000 Americans die from causes related to the use of tobacco products. The annual direct health care cost from tobacco use is $96 billion. Every day 3,500 kids smoke their first cigarette and each day 1,000 young people become regular smokers, one-third of whom will die prematurely as a result.

More than 1.4 million Americans will be diagnosed with cancer this year and more than 550,000 will lose their battle with the disease. There will be 159,000 lung cancer deaths this year. Smoking is responsible for 87 percent of the deaths from lung cancer.

Despite the overwhelming evidence of harm to public health and costs to the health care system, tobacco products remain virtually unregulated. In the absence of government intervention, the tobacco industry continues to market its deadly products to children, deceive the general public about the harm they cause, and fail to take any meaningful action to make their products less harmful or less addictive.

Your legislation would begin commonsense oversight of the industry by giving FDA the necessary authority and resources to regulate the manufacturing, marketing, labeling, distribution and sale of tobacco products. The bill will give FDA authority to prevent tobacco advertising that targets children, prevent the sale of tobacco products to minors, identify and reduce the toxic constituents of tobacco products and tobacco smoke, and regulate industry health claims about the risks of tobacco products.

This is strong and effective legislation broadly supported by the public health community. We assure you that ACS CAN will work vigorously to protect the approach you have taken and to see it enacted into law this year.

Thank you again for your commitment to this critically important and long overdue legislation.

Sincerely,

DANIEL E. SMITH,
President.

AMERICAN LUNG ASSOCIATION,
Washington, DC, May 14, 2009.

Senator EDWARD M. KENNEDY,
Chairman, Committee on Health, Education, Labor and Pensions, U.S. Senate, Washington, DC.

DEAR CHAIRMAN KENNEDY: The American Lung Association commends the Senate Committee on Health, Education, Labor and Pensions for considering S. 982, the Family Smoking Prevention and Tobacco Control Act. Your legislation would finally give the U.S. Food and Drug Administration (FDA) authority over tobacco products.

This legislation will provide the FDA with the authority to stop the tobacco companies from advertising to children, making misleading health claims about their deadly products and from manipulating their products to make them increasingly more addictive. FDA authority over manufactured tobacco products will finally allow our nation to begin to take significant steps to reduce the tobacco-caused death toll that claims more than 392,000 American lives each year and results in $193 billion annually in health care costs and lost productivity.

The American Lung Association is grateful to you for your leadership and we look forward to working with you to ensure its passage by the Senate in June.

Sincerely,

CHARLES D. CONNOR,
President and CEO.

Chicago, IL, May 11, 2009.

Hon. EDWARD M. KENNEDY,
Chairman, Health, Education, Labor, and Pensions Committee, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the physician and medical student members of the American Medical Association (AMA), I am writing to express our strong support for S. 982, the ''Family Smoking Prevention and Tobacco Control Act,'' and to urge the Senate Health, Education, Labor and Pensions (HELP) Committee to approve S. 982 during its mark up of the bill. This legislation would give the Food and Drug Administration (FDA) the authority to regulate the manufacture, sale, distribution, and marketing of tobacco products. The AMA firmly believes that Congress must act this year to protect the public's health by passing the Family Smoking Prevention and Tobacco Control Act.

Cigarette smoking remains the leading preventable cause of death and disease in the United States. Each year, tobacco use kills more than 400,000 Americans and costs the nation nearly $100 billion in health care bills. As physicians, we see daily the devastating consequences of tobacco use on our patients' health. Patients suffer from preventable diseases including cancer, heart disease, and emphysema that develop as a result of the use of a single product—tobacco. The evidence is overwhelming concerning the health risks of using tobacco products, particularly when used over decades.

Ninety percent of all adult smokers begin while in their teens, or earlier, and two-thirds become regular, daily smokers before they reach the age of 19. Each day, approximately 4,000 kids will try a cigarette for the first time, and another 1,000 will become new, regular, daily smokers. As a result, one-third of these kids will die prematurely. Despite their assertions to the contrary, the tobacco companies continue to market their products aggressively and effectively to reach kids, who are more susceptible to cigarette advertising and marketing than adults. Congressional action to provide the FDA with strong and effective regulatory authority over tobacco products is long overdue.

We applaud you for your leadership on strong FDA regulation of tobacco and other critical public health issues. The AMA looks forward to working with you and your colleagues to enact S. 982 and its companion in the House, H.R. 1256, into law.

Sincerely,

MICHAEL D. MAVES.

AMERICAN PUBLIC HEALTH ASSOCIATION,
Washington, DC, May 13, 2009.

Hon. EDWARD KENNEDY,
Senate Committee on Health, Education, Labor and Pensions, Senate Dirksen Office Building, Washington, DC.

DEAR CHAIRMAN KENNEDY: On behalf of the American Public Health Association (APHA), the oldest and most diverse organization of public health professionals and advocates in the world dedicated to promoting and protecting the health of the public and our communities, I write in strong support of S. 982, the Family Smoking Prevention and Tobacco Control Act, legislation that would give the Food and Drug Administration (FDA) the authority to regulate tobacco products. In April, the House of Representatives passed this legislation by an overwhelming bipartisan majority and we are hopeful the Senate will move quickly to pass the bill.

According to the Centers for Disease Control and Prevention (CDC), tobacco use is responsible for about 438,000 deaths each year in the United States. In addition to this staggering statistic, tobacco use costs more than $96 billion each year in health care expenditures, and an additional $97 billion per year in lost productivity. Furthermore, 3,600 kids between the ages of 12 and 17 years initiate cigarette smoking every day. In spite of this, tobacco products remain virtually unregulated. For decades, the tobacco companies have marketed their deadly products to our children, deceived consumers about the harm their products cause, and failed to take any meaningful action to make their products less harmful or less addictive. Your bill would finally end the special protection enjoyed by the tobacco industry and protect our children and the nation's health instead.

This legislation meets the high standard established by the public health community for FDA tobacco regulation. Importantly, the bill would create FDA authority to effectively regulate the manufacturing, marketing, labeling, distribution and sale of tobacco products, including the authority to:

Stop illegal sales of tobacco products to children and adolescents

Require changes in tobacco products, such as the reduction or elimination of harmful chemicals, to make them less harmful and less addictive

Restrict advertising and promotions that appeal to children and adolescents

Prohibit unsubstantiated health claims about so-called ''reduced risk'' tobacco products that discourage current tobacco users from quitting or encourage new users to start

Require the disclosure of tobacco product content and tobacco industry research about the health effects of their products

Require larger and more informative health warnings on tobacco products.

Study and address issues associated with menthol tobacco products

We thank you for your continued leadership on this and other important public health issues. We look forward to working with you to ensure the legislation is passed by the Senate and signed by the president this year.

Sincerely,

GEORGES C. BENJAMIN,
Executive Director.

CAMPAIGN FOR TOBACCO-FREE KIDS,
Washington, DC, May 14, 2009.

Senator EDWARD M. KENNEDY,
Chairman, Committee on Health, Education, Labor and Pensions, U.S. Senate, Washington, DC.

DEAR CHAIRMAN KENNEDY: We are very pleased that the Senate Committee on Health, Education, Labor and Pensions will next week undertake consideration of S. 982, the Family Smoking Prevention and Tobacco Control Act, your legislation to give the U.S. Food and Drug Administration (FDA) authority over tobacco products. On April 2nd, the House passed this legislation with a solid bipartisan vote of 298–112. We look forward to its passage by the Senate in the near future.

Tobacco use remains the leading cause of preventable death in the U.S., killing more than 400,000 Americans each year and costing our health care system an estimated $96 billion annually. More than 1,000 kids become regular, daily smokers each day—and one-third of them will ultimately die from their addiction. Amazingly, tobacco products are virtually unregulated by the federal government. Tobacco products are exempt from basic health regulations that apply to other consumer products such as drugs, medical devices and foods. This special protection allows tobacco companies to market their deadly and addictive products to children, mislead consumers about the dangers of their products, and continue to manipulate ingredients in order to make them more addictive and attractive to children.

There are more than 1,000 national, state and local organizations that support this legislation (the full list of supporting organizations can be seen at: http://www.tobaccofreekids.org/reports/fda/organizations.pdf) and both the President's Cancer Panel and the Institute of Medicine support Congress giving the FDA the authority to regulate the manufacture and marketing of tobacco products.

We applaud your leadership on this important public health legislation and look forward to working with you to ensure its passage by the full Senate.

Sincerely,

MATTHEW L. MYERS,
President.

AMERICAN ACADEMY OF PEDIATRICS,
Elk Grove Village, IL, April 29, 2009.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the 60,000 pediatricians, pediatric medical subspecialists and pediatric surgical specialists of the American Academy of Pediatrics

(AAP), I would like to express our support for the Family Smoking Prevention and Tobacco Control Act (H.R. 1256), legislation to protect child health by providing the Food and Drug Administration (FDA) with strong authority to regulate tobacco products. The bill made historic progress this year, passing in the House early in the session by an overwhelming bipartisan majority of 292–112. We urge the Senate to take up and approve FDA tobacco legislation as soon as possible and oppose the alternative offered by Senators Burr and Hagan.

It is estimated that more than 3 million US adolescents are cigarette smokers and more than 2,000 children under the age of 18 start smoking each day. If current tobacco use patterns persist, an estimated 6.4 million children will die prematurely from a smoking-related disease. Smoking and exposure to second-hand smoke among pregnant women cause low-birth weight babies, preterm delivery, perinatal deaths and sudden infant death syndrome. Other effects may include childhood cancer, childhood leukemia, childhood lymphomas and childhood brain tumors. Well over 30,000 births per year in the United States are affected by one or more of these problems.

The Family Smoking Prevention and Tobacco Control Act will provide the FDA with broad new authority and resources to regulate the manufacture, marketing, labeling, distribution and sale of tobacco products, including advertising. The marketing provisions include banning advertising near schools and tobacco sponsorship of sporting events. The bill would require tobacco company disclosure of cigarette constituents as well as larger and stronger health warnings on cigarette packs. It would also give the FDA the authority to regulate the amount of nicotine in cigarettes, ban flavored cigarettes, and prevent the marketing of products labeled as ''reduced harm.'' This enhanced power can reduce tobacco use by adolescents and young adults, thus limiting the number of people exposed to tobacco's health-compromising and life-threatening risks.

The Academy opposes the alternative tobacco regulation legislation offered by Senators Burr and Hagan titled the Federal Tobacco Act of 2009 (S. 579). It does not provide the protections necessary to protect children from the harms of tobacco. Rather than place tobacco regulatory authority in the FDA, S. 579 would create a new and untested bureaucracy to do the job. The bill does not contain the strong marketing or labeling provisions necessary to prevent our nation's youth from starting a lifelong addiction to tobacco. The Federal Tobacco Act would also mistakenly assure tobacco users of the safety of so-called ''reduced-risk'' tobacco products, give the tobacco industry a voice in scientific decision making, and prevent mandating meaningful changes in tobacco product ingredients. We urge the Senate to oppose this alternative and swiftly pass FDA tobacco legislation.

Thank you for your dedication to the health and well-being of children. We look forward to working with you to pass this important legislation.

Sincerely,

DAVID T. TAYLOE, Jr.,
President.

Mr. DODD. Let me take a couple of minutes. I know my colleague and friend from Wyoming, Senator ENZI, is coming to the floor as well. I think Senator COBURN is going to be here to make a point of order. I will keep an eye out so I do not exceed the time.

I want to point out to my colleagues that this is now down to the last few votes on this matter. I had hoped we would have been able to consider some of the other amendments that were being offered. But as my colleagues, I think, are probably aware, one of the amendments to be considered was an amendment offered by my colleague Senator LIEBERMAN. There was objection to that amendment coming up. As a result, we could not reach an agreement on allowing time for the other amendments to be considered, amendments offered by Senator ENZI, Senator BUNNING, Senator COBURN, and Senator HAGAN.

In fact, an amendment offered by Senator ENZI—he and I reached an agreement on that. It is regrettable that we weren't able to get to it. I hope we can fix it at another time. That is an example of what happened when we couldn't get unanimous consent to go forward. Nonetheless, I hope the substitute will be adopted, cloture will be invoked, and we can schedule a vote for final passage, as I believe we will, in the next day.

This is important. A lot of work has been done on this bill. As Senator DURBIN, our friend from Illinois, pointed out, this is work that has gone on for decades between Republicans and Democrats. It is a bipartisan bill. We spent 2 days on markup, considering amendments, adopting some, accepting some. That brought us to the position we are in today with this legislation.

As I have said over and over again over the last number of weeks as we have considered this bill, this is an unprecedented action we will be taking, an historic moment in many ways. For the first time ever in the history of our country, the 100-year-old regulatory agency, the Food and Drug Administration, which regulates all the food and products we ingest and consume as Americans, will now for the first time be allowed to regulate tobacco products.

The FDA, the Food and Drug Administration, as I pointed out, not only regulates the food we humans consume but also pets—cat food, dog food, bird feed, hamsters—all those products have to be approved by the FDA. One product we have not been able to legislate because of opposition from the tobacco industry is tobacco products. We are about to change that. My hope is with a vote today and tomorrow, and then agreement with the House, the President will be in a position to sign the legislation that will, first, give the Food and Drug Administration the opportunity to regulate these products and, as important, to determine and set guidelines and regulations dealing with the sale and marketing to young people.

It has been said, I know, over and over again, maybe not often enough, 3,000 to 4,000 children begin smoking every day in America. Every day we delay having the FDA take on this responsibility and begin controlling the marketing and sale of these products, we run the risk of more and more children starting the habit. We know that of that 3,000 to 4,000 who start smoking every day, 1,000 of them end up becoming addicted to the products. One in five high school students in my State of Connecticut today smoke. I suspect those numbers are probably fairly uniform across the country. Of that number I have mentioned, the thousand who become addicted, about one-third that number will die from smoking-related illnesses. Four hundred thousand people every year lose their lives as a result of tobacco-related illnesses.

Again, this is a self-inflicted wound. Obviously we have known this for a long time. The Surgeon General has warned for years, every scientific study that has been done has cautioned about what happens if people develop the habit of smoking and the dangers associated with it. We talk about loss of life but there are also those who become debilitated through the contraction of various diseases associated with smoking.

I apologize for making this case with numbers, but it is so important my colleagues understand where we are and how important this vote is, to be able to do this. We are now already beginning the debate about health care in the country. That debate is going to go on for the next number of months. A major feature of the health care debate is prevention, to try to prevent people from getting the diseases that cost them and their families and our country so much. What better way to take a step toward prevention than to deal with an issue like smoking and tobacco products, which causes so many deaths in our country, so many illnesses.

In fact, if you take suicides, murders, AIDS, alcohol-related deaths, automobile accidents, drug-related deaths, and combine all of them, they do not equal the number of fatalities that occur every year as a result of the use of tobacco products.

If we are truly interested in making real headway on prevention, what better way than to begin to deal with the issue of marketing and sale of tobacco products to young people. That is what a major part of this bill does.

We also provide help to the producing States because we recognize that for farmers in these States, this will be a major adjustment for them economically. This bill accommodates that as well.

I say to my friends on the other side, particularly, those who have offered—want to offer some of these amendments, we didn't have a chance to consider some of them, but I want them to know it was not objection on this side to that at all. There were objections to the Lieberman amendment going forward that created this problem. But, nonetheless, the work that has been done on this bill I think is deserving of our support. It is worthy of our unanimous adoption.

As I said over and over again, if you were to collect all of the adult smokers in the country—and 90 percent of adult

smokers began as children, by the way—but if you asked all of them their opinion on whether we ought to do something about marketing these products to children, I would be willing to venture a guess that 98 percent of adult smokers, if they could speak with one voice today, would tell us to pass this bill. The last thing a parent who smokes wants is their children to start smoking. They know the hazards, they know the damage, they know the heartache that comes with the illnesses associated with these products.

On behalf of all parents in the country, smokers and nonsmokers, let us adopt this legislation and take a major step in dealing with the dreaded health problems associated with tobacco products.

I see my colleague from Wyoming so let me stop here and give him the remainder of the time he needs to comment on this. I thank him and his staff who have been working on this. I am a late arrival. He worked with Senator KENNEDY on this problem long before I was directly involved with it. I thank him for his work.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. I thank the Senator from Connecticut, Senator DODD, who is working as chairman on this committee, for his passion, enthusiasm, and for listening to us. We do have a few things that are in the bill, but there are several other things that ought to be considered. We want the bill to be as good as possible. When we do cloture, we cut off that possibility.

I have a couple amendments that I think, if they were addressed—I know one is kind of accepted on both sides, but we cannot get them in. That is a frustration. We should not be having frustrations on something as important as this bill. It is important that we stop kids from starting smoking and that we get people already smoking to stop smoking. It is adding to the health care bills of all of us. It is a cost shift we are experiencing. It is not good for their health. Then there are family members who are having secondary smoke. People do not realize the problems they are giving to their family members by doing that.

I do oppose cloture today. There are several amendments I would like to offer. They are all germane amendments. I am glad they were germane amendments. We have been trying to reach an agreement on offering these amendments but it has been without any success, and if we invoke cloture we will not have a chance to consider any of these amendments.

I hope we have a way to give these amendments serious consideration. If we cannot, I have to oppose cloture and I ask my colleagues to do the same. I think we can get it worked out in a relative hurry but not unless the train stops for a moment, a little hesitation here.

I want to get this bill done. I am hoping we can complete it. But I think there are some important points that have to be made on it.

I yield the floor.

CHARACTERIZING FLAVOR

Mr. LAUTENBERG. Madam President, recent attempts by the tobacco industry to sell and market candy-flavored cigarettes are a real threat to our Nation's children. With flavors such as cherry, grape, and strawberry, these cigarettes are intended to get our children addicted to a deadly product that kills more than 400,000 people a year. The Family Smoking Prevention and Tobacco Control Act section 907 prohibits the use in cigarettes of flavors, herbs, spices, such as strawberry grape, orange, clove and cinnamon, when used as a ''characterizing flavor'' of the tobacco product or smoke. I applaud you along with Senator KENNEDY for prohibiting these products.

Mr. DODD. As you know, most new smokers start as children. Every day, approximately 3,500 kids will try a cigarette for the first time, and another 1,000 will become new, regular daily smokers. We should do everything possible to protect our children from the dangers of smoking.

Mr. LAUTENBERG. However, it is my understanding that the language in section 907 is not meant to prohibit the use of any specific ingredient that does not produce a ''characterizing flavor'' in a cigarette or its smoke; is that correct?

Mr. DODD. The Senator from New Jersey is correct. While the term ''characterizing flavor'' is undefined in the legislation, it is intended to capture those additives that produce a distinguishing flavor, taste, or aroma imparted by the product. Nothing in this section is intended to expressly prohibit the use of any specific ingredient that does not fall into this category.

Mr. LAUTENBERG. I thank the Senator for this clarification.

Mr. LEVIN. Madam President, I am pleased the Senate is taking up the Family Smoking Prevention and Tobacco Act which will save hundreds of thousands of lives and more than $155 billion in health care costs every year. Currently, there are more than 44 million smokers, of which 90 percent began smoking before the age of 18. Tobacco is a product that is responsible for 440,000 deaths each year, is the leading cause of preventable death, and yet, is not regulated.

The Family Smoking Prevention and Tobacco Control Act will go a long way in regulating tobacco products, and will make it less likely that a child will establish a dependence on tobacco products. In the United States alone, every day approximately 3,000 minors take up smoking. Simply reducing the use of tobacco by these minors by even 50 percent will prevent more than 10 million children from becoming habitual smokers, saving over 3 million of them from premature death due to tobacco related disease.

It is critical that the FDA gain regulatory authority over tobacco related products, in order to ensure that consumers are better informed of the possible risks, addictive qualities, and adverse health effects of these products. In addition, this legislation will create more transparency and, as in many other consumable goods, tobacco manufactures will be required to list all ingredients included in their tobacco products. This bill also gives the FDA the ability to set quality criteria for tobacco products, prohibit cigarettes containing any flavoring other than tobacco or menthol, as well as require the FDA approval for all labels before being put on the market.

In 2005, cigarette manufactures spent more than $13 billion to attract new users, retain current users, and increase consumption. Children especially are exposed to tobacco advertising, seeing tobacco use glorified in movies, and advertisements and sponsorship of sporting events. This advertising misleads users, children and adults, to believe products are healthy, for example, ''light'' or ''low-tar'' designations. Our Nation stands to benefit greatly from this legislation, both in quality of life and revenue saved. The diseases and deaths caused by smoking are preventable, and every person has a stake in the issue, whether they smoke or not.

I was disappointed in 1998 when the Fourth U.S. Circuit Court of Appeals decided in Brown & Williamson Tobacco Corporation v. Food and Drug Administration, FDA, that the FDA did not have the authority under existing law to regulate tobacco as an addictive drug, and I am pleased the Family Smoking Prevention and Tobacco Control Act will take steps to address this lack of regulation. This bill has the support of over 1,000 organizations and deserves our support.

Mr. CARDIN. Mr. President, I regret that the Senate was unable to reach an agreement with regard to consideration of the amendment which Senators LIEBERMAN, AKAKA, COLLINS, and VOINOVICH offered to H.R. 1256. The amendment, which was ruled nongermane, reformed several Federal employee retirement provisions. It made changes to benefit computation rules for certain Federal employees, including the ability to count sick leave and part-time service, and it authorized Federal agencies to reemploy Federal pensioners on a part-time basis.

I cosponsored this amendment. Its importance particularly resonates with me as a large number of Federal employees work and reside in my home State of Maryland. But that is not why I cosponsored it. I cosponsored the amendment because it was the right thing to do for all of America's Federal employees.

The Lieberman amendment would have extended to employees under the Federal Employees' Retirement System certain benefits which already apply to employees under the older Civil Service Retirement System. This bipartisan amendment had the potential to affect the lives of hundreds of

thousands of Federal employees who work hard every day, many at modest pay grades, only to find that their benefits do not mirror those of their colleagues in the same positions.

We had an opportunity to send an important message to America's Federal workers by bringing up this amendment. We had an opportunity to give them additional incentives to continue the missions they pursue on behalf of all of us, to demonstrate that Congress still cares about doing what is right and fair. I regret we were unable to consider this amendment because of the objections of a minority of Senators.

I commend Senator LIEBERMAN and the other Senators who worked so diligently on this amendment. We will have other opportunities. I pledge my continued support for America's Federal employees, just as they continue to work for America each and every day.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Madam President, on behalf of Senator LIEBERMAN I ask unanimous consent, notwithstanding rule XXII, that I be permitted to call up amendment No. 1290 and that the amendment be modified with the changes at the desk; that once this modification is made, amendment No. 1256 be withdrawn.

The PRESIDING OFFICER. Is there objection?

Mr. DEMINT. I object. I make a point of order that the pending Lieberman amendment is not germane.

The PRESIDING OFFICER. Objection is heard. The point of order is well taken. The amendment falls.

Under the previous order, the substitute amendment is adopted.

The amendment (No. 1247) was agreed to.

Mr. DODD. The pending matter will be a vote at 12:30, in a few minutes, on the cloture motion, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DODD. We will go to the vote right away. I appreciate the comments of my friend from Wyoming. I wish the RECORD to note there were no objections on this side to any of the amendments being offered, the germane amendments. My friend from Wyoming is absolutely correct. I regret that, that we didn't have an opportunity to debate those, but let me say there may be a time and opportunity for us to deal with these on other vehicles as well, but my hope is we can invoke cloture and move forward.

I am prepared to yield back the time and proceed to the vote.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on Calendar No. 47, H.R. 1256, Family Smoking Prevention and Tobacco Control Act.

Harry Reid, Christopher J. Dodd, Robert P. Casey, Jr., Debbie Stabenow, Blanche L. Lincoln, Patty Murray, Ron Wyden, Jack Reed, Sheldon Whitehouse, Maria Cantwell, Roland W. Burris, Richard Durbin, Mark Udall, Edward E. Kaufman, Tom Harkin, Benjamin L. Cardin, Bill Nelson.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived. The question is, Is it the sense of the Senate that debate on H.R. 1256, Family Smoking Prevention and Tobacco Control Act, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

The PRESIDING OFFICER (Mrs. HAGAN). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 67, nays 30, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—67

Akaka	Grassley	Murray
Baucus	Gregg	Nelson (NE)
Bayh	Harkin	Nelson (FL)
Begich	Hutchison	Pryor
Bennet	Inouye	Reed
Bingaman	Johanns	Reid
Boxer	Johnson	Rockefeller
Brown	Kaufman	Sanders
Burris	Kerry	Schumer
Cantwell	Klobuchar	Shaheen
Cardin	Kohl	Snowe
Carper	Landrieu	Specter
Casey	Lautenberg	Stabenow
Collins	Leahy	Tester
Conrad	Levin	Thune
Corker	Lieberman	Udall (CO)
Cornyn	Lincoln	Udall (NM)
Dodd	Lugar	Warner
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Merkley	Wyden
Feinstein	Mikulski	
Gillibrand	Murkowski	

NAYS—30

Alexander	Crapo	Martinez
Barrasso	DeMint	McCain
Bennett	Ensign	McConnell
Bond	Enzi	Risch
Brownback	Graham	Roberts
Bunning	Hagan	Sessions
Burr	Hatch	Shelby
Chambliss	Inhofe	Vitter
Coburn	Isakson	Voinovich
Cochran	Kyl	Wicker

NOT VOTING—2

Byrd	Kennedy

The PRESIDING OFFICER. On this vote, the yeas are 67, the nays are 30. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Connecticut.

Mr. DODD. Madam President, I wish to thank my colleagues. This is, again, a strong bipartisan vote on this issue, and it allows us now to get to the final passage. We have had about, I think, three cloture votes on this bill. If we followed the regular order, the vote would occur at 6:05 a.m. tomorrow morning. I am sure the leader will not make us do that, but that may be the price you pay for all the cloture votes we have had to go through. But sometime tomorrow the vote will occur, and the leadership will obviously decide when.

Let me again thank Senator ENZI and his staff and Senator KENNEDY and his staff. They have gone back many years. I am a place-holder on this. I hope our friend from Massachusetts is watching this because he battled 10 years to get us to this point.

If we can make a dent in those 3,000 to 4,000 kids who start smoking every day—the estimates are 11 percent will not start smoking because of what we are about to do on this bill. If we can make a difference in those 400,000 who lose their lives every year and those who contract emphysema and related illnesses, this may be the most important prevention step we take in the short term on our health care efforts.

So for my colleagues on both sides of the aisle who have made this possible, this is a moment they can take great satisfaction in having made a significant contribution to the well-being of Americans. I thank all of them for that and urge a strong vote tomorrow for the passage of the legislation. Then we will work out—and we may not have to work out differences with the House—but if we do, we will then send this bill to the President for his signature, hopefully in the next few days. For the first time in the history of our country, the Food and Drug Administration will be able to regulate tobacco products, and that is a major achievement for our country's children.

With that, Madam President, I thank my colleagues again and suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold his request?

Mr. DODD. Madam President, I withhold that request.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Madam President, I ask unanimous consent to be able to speak as in morning business for 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SAFE COMMISSION ACT

Mr. VOINOVICH. Madam President, I rise today to again call attention to the irresponsible and reckless fiscal path we find ourselves on as a nation and to urge my colleagues to act now to take the first step toward meaningful, comprehensive tax and entitlement reform through the enactment of the Securing America's Future Economy Commission Act, which I introduced with Senator JOE LIEBERMAN.

I urge my colleagues to take the time to read a recent letter from Senator

LIEBERMAN and I urging their support of this legislation.

The SAFE Commission has broad bipartisan support outside of Congress, including the Peter G. Peterson Foundation, the Business Roundtable, the Concord Coalition, the National Federation of Independent Business, the Brookings Institution and the Heritage Foundation—I think if you get the Concord Coalition and the Heritage Foundation to support a piece of legislation, it has to be pretty bipartisan and fair—and also the Committee for a Responsible Federal Budget. All of these organizations back the SAFE Commission concept as the way to tackle tax reform and our entitlement crisis.

I say to the Presiding Officer, as you may know, recently Chinese Prime Minister Wen Jiabao publicly voiced his concern about the security of the ''huge amount of money'' China has invested in the United States, saying, ''To be honest, I am definitely a little worried.'' He then went on to call on the United States to ''maintain its good credit, to honor its promises and to guarantee the safety of China's assets.'' I hope this frightens you as much as it frightens me. China is the largest foreign creditor of the United States, holding an estimated $1 trillion in U.S. Government debt. Though it may be unlikely due to the complex interdependent relationship we have with China, if China were to call in that debt, sell off its holdings, or direct its foreign investments away from the United States, the impact on our economy and our national security would be devastating. I have been saying for years that we cannot allow countries that control our debt to control our future.

The fact is foreign creditors have provided 70 percent of the funds the United States has borrowed since 2001. As a result, 51 percent of the privately owned national debt is held by foreign creditors—mostly foreign central banks. That is going to be increased significantly because of all the borrowing we are doing. These lenders are starting to express significant concerns about the status of our fiscal situation. To be frank, they should be concerned.

Our spending is out of control. As a result, our debt is skyrocketing. When I arrived in the Senate in 1999, gross national debt stood at $5.6 trillion, or 61 percent of our GDP. The Obama administration recently projected the national debt to more than double to $12.7 trillion by the end of fiscal year 2009. From 2008 to 2009 alone, the Federal debt will increase 27 percent, boosting the country's debt-to-income ratio—or national debt as a percentage of GDP—from 70 percent last year to 89 percent this year.

As shown on this chart, here is where we were back when I came to the Senate in 1999. In 2008, last year, the national debt as a percentage of GDP was 70 percent. Today, it is at 89 percent. You can see we are going to be very close to 100 percent of our GDP on our national debt. I call this the Pac Man that is eating up our revenue—particularly the interest. We are going to pay money that could be used for other things.

Alarmingly, the figures I just mentioned do not count our accumulated, long-term financial obligations. The Peterson Foundation recently pointed out that the Federal Government has accumulated $56.4 trillion in total liabilities and unfunded promises for Medicare and Social Security as of September 30, 2008. That works out—listen to this—to $483,000 per American household or $184,000 for every man, woman, and child in the country to pay for these unfunded obligations. In other words, we have $56.4 trillion in total liabilities and unfunded promises for Medicare and Social Security. It is an unfunded liability. If you look at it per household, it is $483,000 per household, and if you look at it per individual, for every man, woman, and child in the United States, it is $184,000.

To be completely fair to President Obama, our annual deficit and growing national debt have been problems for some time now. And, folks, I have come to the floor of the Senate time and time again to talk about paying down debt, balancing our budget, and so forth.

To my knowledge, President Bush never once mentioned the debt in any one of his State of the Union Addresses to Congress. But under the Obama administration, we have exacerbated the problem with an Omnibus appropriations bill that includes $408 billion in nonemergency funding, a $787 billion stimulus bill, and a 10-year proposed budget where the lowest deficit for a single year is larger than any annual deficit from the end of World War II to President Obama's inauguration.

I know we are going through some tough times. Over the past year, we have been hit by an economic avalanche that started in housing, spread to the financial and credit markets, and then continued onward to every corner of our economy. I know it well. I am a Senator from Ohio. We are spending money to get out of this economic mess, but we cannot allow that to be an excuse to continue our reckless fiscal path. We have to start finding ways to work harder and smarter to do more with less. It does not take an economist to realize our course is unsustainable. I know it, the Obama administration knows it, the American people know it.

The Obama administration knows we can no longer ignore this crisis. Peter Orszag, whom I consider a friend, the Obama administration's OMB Director, has even said:

I don't want to sound like the boy crying wolf, but it is a fact that, given the path that we are on, two things: One is we will ultimately wind up with a financial crisis that is substantially more severe than even what we are facing today if we don't alter the path of Federal spending; and secondly, that if we were on that path in the future and something like we are experiencing today occurred, we would have much less maneuvering room to fight those fires, because we will have already depleted the fire truck.

And I am disappointed that as OMB Director he has forgotten his commitment to entitlement and tax reform he so boldly and loudly called for when he was CBO Director. You would think a change in title would not cause such a memory loss on as important an issue as the financial health of our country. To me, it can only mean one thing: that Peter Orszag's boss, President Obama, must not be serious about addressing the growing national debt or, worse, does not understand our fiscal crisis or, even worse than that, that he just does not care.

Just last Friday, the Washington Post ran an opinion piece taking the administration to task for lacking a plan on just how we start to dig our country out of this financial crisis. The article details Treasury Secretary Geithner's trip to Beijing 2 weeks ago, where he went to reassure China—the world's largest holder of our Treasury debt, as I mentioned—that lending money to the U.S. Government is still a wise thing to do.

Mr. Geithner insisted that:

In the United States, we are putting in place the foundations for restoring fiscal sustainability.

In a moment that all Americans should consider a wake-up call, Mr. Geithner was met with laughter—laughter—when he told a group of Chinese students that their country's assets were very safe in Washington.

Madam President, I ask unanimous consent to have printed in the RECORD this Washington Post article. The title of it is ''No Laughing Matter, Why the U.S. needs to get serious now about long-term budget deficits.''

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 5, 2009]

NO LAUGHING MATTER

The Obama administration inherited from its predecessor both a tanking economy and a huge federal budget deficit. Under the circumstances, it cannot be faulted for increasing the deficit in the short run, because a mammoth recession called for fiscal stimulus. Thus, it is neither surprising nor irreversibly dangerous that the total federal debt held by the public looks as if it will reach 57 percent of gross domestic product by the end of fiscal 2009 on Sept. 30—well above the previous four decades' average of about 40 percent. What is more alarming is that, barring major spending cuts or tax increases, President Obama's budget could drive that figure to 82 percent by 2019, according to the Congressional Budget Office.

We are already getting a taste of the problems that could develop if the president and Congress do not address this soon. Since the end of last year, the interest rate on 10-year Treasury notes has gone up from 2 percent to over 3.5 percent. That number is within historical norms; indeed, Treasury rates probably had been artificially depressed during the financial panic of the fall. But the spike, which will cost the government tens of billions of dollars, also reflects mounting investor concern—at home and, especially,

abroad—about the U.S. fiscal situation. If government borrowing costs continue to accelerate, they could kill economic growth for years to come.

It was a sign of the times that Treasury Secretary Timothy F. Geithner had to travel to Beijing this week to reassure China, the world's largest holder of Treasury debt, that lending money to the U.S. government is still a wise thing to do. Mr. Geithner insisted that, ''in the United States, we are putting in place the foundations for restoring fiscal sustainability.'' To be sure, China doesn't have many good alternatives to parking its massive trade surpluses in dollars. But it does have some, including commodities and the debt of more fiscally prudent European governments. In a moment that all Americans should consider a wake-up call, Mr. Geithner was met with laughter when he told a group of Chinese students that their country's assets were ''very safe'' in Washington.

The chairman of the Federal Reserve, Ben S. Bernanke, was considerably more decorous than the Chinese students in testimony before Congress on Wednesday but, in essence, only slightly less skeptical. ''Even as we take steps to address the recession and threats to financial stability,'' he said, ''maintaining the confidence of the financial markets requires that we, as a nation, begin planning now for the restoration of fiscal balance.''

Mr. Bernanke did not say explicitly that there is no such plan in Mr. Obama's budget—at least not according to the CBO, whose estimates of the president's budget show annual deficits lingering indefinitely above 4 percent of GDP. Nor did he point out that Congress has yet to come up with credible financing for the president's desirable but expensive health care proposal. He did not say that Mr. Obama and Congress have done nothing so far to deliver on the president's pledge of entitlement reform. But if the Fed chairman had said those things, he would have been absolutely right.

Mr. VOINOVICH. Madam President, this week, as you know, President Obama announced a plan to reenact statutory pay-as-you-go, pay-go. Now, what is ''pay-go''? Pay-go basically is this: If you want to spend more money, you either have to find other spending you are going to reduce or, in the alternative, you are going to have to raise taxes to pay for it.

Unfortunately, the President's plan exempts things like the 2001–2003 tax cuts, patching the alternative minimum tax, updating physicians' payments in Medicare—and last but not least, modifying the estate tax. These expenses would be exempt from pay-go.

Folks, I believe this is intellectually dishonest. This does not reflect the high standards the President has set for his administration. In my opinion, it is more like the smoke and mirrors of the past that got us into the mess we find ourselves in today.

Maya MacGuineas, president of the Committee for a Responsible Federal Budget, puts it like this:

It is like quitting drinking—

She was referring to the President's pay-go announcement. Here is what she says—

It is like quitting drinking, but making an exception for beer and hard liquor. Exempting these measures from pay-go would increase the 10-year deficit by over $2.5 trillion. That's not fiscal responsibility.

Today, I am reiterating my call for President Obama and Congress to enact the first pillar of meaningful tax and entitlement reform through the enactment of the SAFE Commission Act. I am asking my colleagues and their staffs to step up and look at this legislation and read the ''Dear Colleague'' letter Senator LIEBERMAN and I sent this last week with materials from the Peterson Foundation. Those materials, for a Senator or for staff members, lay out what I am talking about today. In addition, there is a DVD that is called IOUSA that was put together by the Peterson Foundation. I think it takes about an hour to look at it, but I don't know of anything that is out there today that depicts our financial crisis as well as that DVD does.

The SAFE Commission we are talking about would create a vehicle, much like we do for the BRAC process, to take on the tough issues of Social Security, tax reform, and creating, by a vote of 13 out of 20 members—there would be 20 members on the Commission; 2 of them would be from the administration, but it would take 13 out of 20—and if you have 13 out of 20, the recommendations would be fast-tracked through a special process and brought to the floor of both Chambers.

In other words, we would give it expedited procedure and then we would have to either vote up or down, just as we do on the BRAC process. It would break the logjam in Washington and show the American people and the world that we are serious about getting this Nation back on track.

For the life of me, I cannot understand why President Obama doesn't support this concept. I know he is getting a hard time from Speaker PELOSI and from several other Members in the House of Representatives, although STENY HOYER is in favor of the commission approach to solving our entitlement and tax reform crisis. We all know we can't get this done through the regular order of business. We know it. We would not be able to get it done. The proof of it is we haven't been able to do it thus far, so we are going to need the Commission. Everybody understands we are going to need it.

I know the President wants to move on climate change. But he has to know that from a substantive point of view and a political point of view, he is going to have to do something about this long-term financial crisis in which we found ourselves. It would seem to me he could go forward with climate change, he could go forward with health care reform, and get the Commission formed. It will take the Commission at least a year to finish its business.

Think of this: If the Commission is able to get 13 out of 20 members to come back with a bipartisan solution to dealing with tax reform and entitlement reform, that would be wonderful. It would take that issue off the President's plate. In other words, sooner or later, our President and his party are going to have to face up to the fact that the people of America are really worried—and so are the people of the world—about us doing something about tax reform and entitlement reform.

Wouldn't it be great—I mean, if I were the Governor, as I was for 8 years in Ohio, and somebody said: Governor, you know what. You have a real problem. And what we are going to do is, we are going to put a commission together on a bipartisan basis, and we are going to come back with recommendations to get the job done—I would kiss them and say: Wonderful. I could kind of forget about it, except for the two people in the administration who were working on it. If they came back with a bipartisan solution, wow. Get it through Congress and we deal with the substantive problem and we get a big political problem off our plate just before going into the next Presidential election. So I just hope there is some more thought being given by the administration, more thought given by the Congress.

We all say: Oh, yes, we are concerned about the national debt. We have to do something about it. But when you go home, what are you going to point to for the people, your constituents? What are you going to point to and say: I am sincere about this; I want to do something about it. Then they are going to ask you: Well, what did you do? One of the things you can do is say: I supported a bipartisan commission. They are going to go to work during the next year. They are going to come back with recommendations, and this is the way we can deal with the problem that is going to be such a burden on the future of our country.

I came here in 1999, and one of the reasons I came here was to deal with our deficits and with reducing our national debt. I am going to be leaving this place at the end of next year. I have three children, and I have seven grandchildren. I happen to believe that just like the pages who are here today in this room, they are going to have to work a lot harder, work a lot harder than I do in order to maintain the standard of living that I have been able to have because the competition in the world today is a lot keener than it was 15 or 20 years ago. They are just going to have to work harder than they have ever had to work before to maintain the kind of standard of living that we would like to have for them and for my children and grandchildren. But if you think about it, if we don't deal with this problem I am talking about today, we are going to lay on their backs taxes that will break the bank.

So we put them in a position where they are going to have to work harder to maintain a decent standard of living. Then, what we are saying to them is, we are going to let you pay for those things that we weren't willing to do without or pay for on our own. To me, that is absolutely immoral. It is absolutely immoral.

One of the things I would hope is—and I feel like a broken record, but I

would hope that the Holy Spirit would somehow enlighten us to face up to this very serious responsibility, one that if we don't face up to, will have a devastating impact on the future of our country and our children and grandchildren.

I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold his request?

Mr. VOINOVICH. Yes, I will.

Mr. VITTER. Madam President, I ask unanimous consent to speak for up to 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

DRUG REIMPORTATION AND REFORM

Mr. VITTER. Madam President, today I rise to speak on two crucial issues which I had hoped we would not only be debating in the context of this FDA bill currently before the Senate, but actually acting on in that context. So I have to say as I speak about these two issues I am disappointed we are not taking this obvious, major opportunity of acting on a major FDA bill to again not only have me speak, but all of us act together on the crucial issues of, No. 1, the reimportation of prescription drugs; and, No. 2, meaningful generic drug reform so that we get generics to market sooner as a lower cost alternative for American consumers. I wish to touch on each of these in turn.

I was glad to support my friend, the distinguished Senator from North Dakota, and many Democratic and Republican colleagues, in introducing an amendment to the FDA tobacco bill to enact comprehensive reimportation of prescription drugs. This has long been an issue that has truly united, in a sincere bipartisan way, Democrats and Republicans. Many Democrats and many Republicans have agreed. I think at a time when, unfortunately, the partisan divide and sometimes divisive and bitter partisan rhetoric is at an all-time high, it is important to find areas where we can bridge that divide in a meaningful and sincere way.

It is important to work on real issues and real solutions together and bridge that divide. Reimportation is a great example of that.

Now, we have on record a clear majority in the Senate and well over 60 votes for reimportation. We have a clear majority in the U.S. House for reimportation, and we have an administration and a President who are for reimportation, and he is on record in that regard in his service in the U.S. Senate. In addition, we have an important issue that can save all of us and can save our health care system billions of dollars as we go into health care reform. Surely, we need to be talking and acting in ways that can cut costs in health care without endangering the public, without hurting patient care, and this is a great opportunity.

The CBO has estimated that Americans would save about $50 billion—$50 billion with a ''b''—over the next 10 years if reimportation were enacted. So we have a true bipartisan issue which has true consensus support in the Senate, in the House, and in the administration, which can save all of us and our health care system $50 billion. Let's act. Surely, this is a recipe for something we can act strongly on and produce positive results.

So what is going on? Well, I am afraid what is going on is exactly what my colleague, the Senator from Arizona, Mr. MCCAIN, suggested on the Senate floor last week. He stood bravely on the Senate floor and read directly from a lobbyist e-mail, a lobbyist of big PhRMA, the association which represents the biggest pharmaceutical companies, and read a detailed e-mail about how they were going to block and derail this effort of mine and Senator MCCAIN's and Senator DORGAN's and others.

I think seeing that come to pass, seeing this effort successfully blocked from the FDA bill—something that is clearly a major opportunity on which to pass reimportation, a big FDA bill—that has to grow the cynicism of the American public. Americans all across our country have to be out there thinking: OK, what is wrong with this picture? Reimportation unites Democrats and Republicans, a big majority in the Senate, a big majority in the House, the support of the President, saves the system $50 billion, obvious opportunity to pass it on an FDA bill, but, once again, it is cut off. It is blocked from consideration, from moving forward. That has to increase everybody's cynicism, and we have to work beyond that to pass this important legislation for the American people.

I am happy the majority leader has generally said he would find time on the Senate floor for consideration of a reimportation bill. We need to move. We would like a date certain, Mr. Leader, a date certain for that important consideration. After so many years of waiting, after so many years of the big PhRMA lobbyists and others blocking us from that consideration, we would like that debate and that action as soon as possible. It is certainly appropriate as we go into a major debate on health care reform.

I would underscore the same message with regard to the second crucial topic: reform with regard to generic drugs. For many months now, I have been working with several Members, most notably Senator SHAHEEN of New Hampshire, on bipartisan consensus generic drug reform.

Once again, I was very hopeful that this FDA bill on the floor of the Senate now would be a prime opportunity, an obvious opportunity, to pass that consensus bipartisan reform. Once again, that door was closed to us. We are not going to have that opportunity, and I express real disappointment.

But we need to act in that area. I look forward to continuing to work with Senator SHAHEEN, Senator BROWN, and others in that important area. We have been focused on two things, in particular, that can make a huge difference.

First, we need to clear up certain loopholes, quite frankly, in the law that allowed drug companies to make labeling changes when their patent protection is about to run out, when generic was about to be open to go on the market. They were able to make slight labeling changes to extend that protection longer, in my opinion, in a somewhat artificial way. We need to reform the law and clear up those loopholes so that generic can come to market and provide Americans with a lower cost alternative.

Surely the drug companies need a period of protection so they can recoup their enormous investment in research and development. But what they don't need, and what we should not allow, in my opinion, is tweaking the labels at the eleventh hour and extending that protection in an artificial and, in my opinion, unreasonable way. That is a big area of reform I have been working on with Senator SHAHEEN and others.

A second area of needed reform is to elevate the Office of Generic Drugs and its importance within the FDA. We need to give it more stature. We need to have the head of that office report directly to the head of the FDA, the Administrator. We need to fund it properly so that, again, we put the proper emphasis on generic drugs. Generics are a good, safe, lower cost alternative to millions of American seniors and other Americans. They provide that today. But they can provide that lower cost alternative to an even greater extent if we take these commonsense, consensus, bipartisan measures—if we do away with these loopholes that allow last-minute labeling changes to artificially and unreasonably extend a company's patent, and if we elevate the stature of the Office of Generic Drugs within the FDA.

Again, it was an obvious opportunity to do just that in a bipartisan consensus way as we debate and act on this major FDA bill on the floor of the Senate now. I am sorry that door has been closed to us. I am sorry we have lost that opportunity. It is a shame. But we need to move on that issue, just as we need to move on reimportation now in the next few months this year in this body and in the House of Representatives.

We desperately need important health care reform. We need savings in the system to make costs of the overall health care system more reasonable, without sacrificing patient care, without telling seniors they cannot get this treatment or they cannot get that operation. These are commonsense, achievable ways to do that, by stabilizing the cost of prescription drugs. That is one of the most significant costs in our health care system with one of the most significant growth patterns. So let's act on reimportation, let's act on generics reform, let's act in

a bipartisan way, let's act for the best interests of American seniors and all the American people.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

(The remarks of Mr. SANDERS pertaining to the introduction of S. 1225 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. SANDERS. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CREDIT CARD FAIR FEE ACT

Mr. DURBIN. Mr. President, yesterday I reintroduced the Credit Card Fair Fee Act. This legislation will provide fairness and transparency in the setting of credit card interchange fees.

Several weeks ago, the Senate passed legislation that will crack down on abusive fees and practices that credit card providers impose on consumers and cardholders. It is landmark legislation. It was 20 years in the making. I was pleased to support it and glad it passed.

We also need to take a hard look at the fees and the restrictions credit card providers impose on retailers. Retailers such as the restaurant down on the corner, the grocery store, the shop, these have to be looked at as well.

Currently, banks and credit card companies impose a system of fees and restrictions on retailers that accept their cards as a form of payment. There is a growing recognition that many of these fees and restrictions are anticompetitive and unfair to businesses and consumers.

Many people assume credit cards make their money off the customers who use them in direct payment, interest charges, and penalties. It turns out there is a whole level of fees that is imposed on retailers which, obviously, is passed on to consumers but have a direct impact on sales in America. If we do not address flaws in the system, many businesses will find it hard to make a profit, and the credit card fees cause consumer prices to go up as well. The most flawed element of the current system of merchant fees is the interchange fee. It is a fee merchants pay to card issuing banks on each debit or credit card transaction.

Under the current system, card networks, such as Visa and MasterCard, unilaterally set the rates for these interchange fees. These fees vary from card to card, but they average about 2 percent of the transaction they cover. Card companies don't let their member banks negotiate with merchants over the fee rates, and they prevent merchants from encouraging customers to use cards that carry lower fees.

Yesterday, the Secretary of the Treasury was in before my appropriations subcommittee. It turns out, we accept credit cards for some 200 different agencies in the Federal Government. I asked the Secretary how much we pay in interchange fees to these credit card companies—as we accept credit card payments for everything from taxes to purchases at the Government Printing Office. It turns out it is well over $200 million a year. The GAO did a study in which it was asked whether, in fact, the Federal Government bargains for lower interchange fees because of the volume of business we do. It turns out there is virtually no bargaining allowed, not even with the Federal Government.

If merchants want to accept credit cards, those merchants simply have to abide by the rates, just like the Federal Government, that the card networks set, even when the rates are increased.

In fact, card companies regularly increase their interchange rates. A report by the Federal Reserve Bank in Kansas City found that between 1996 and 2006 Visa and MasterCard interchange rates increased from approximately $1.30 per $100 transaction to $1.80. That is about a 40-percent increase over that 10-year period of time. The rates have gone up even further for cards that have rewards programs. The total amount of interchange fees collected last year was $48 billion, according to estimates of the National Retail Federation. It is a huge increase from 2001, when the figure was $16.6 billion.

Despite these rising fees, many merchants have no real choice but to accept these cards as a form of payment. Consumers use their credit and debt cards for over 40 percent of all transactions. Interchange fees cut into retailer profits and force many merchants to raise consumer prices or go out of business.

As you think about it, what does it mean for the profitability of a company if the business is required to pay the credit card company 2 percent of the sale price on every sale? Well, for some companies that operate on a very tight margin, it can be significant. Best Buy, the large and successful electronics retailer, has a net profit margin of only 2.2 percent. Whole Foods, a well-known grocery store, has a profit margin of 1.4 percent. The food and drugstore retail sector has a profit margin of only 1.5 percent, according to Fortune magazine.

How can these companies continue to be profitable if rising interchange fees paid to credit card companies cut into their already small operating margins? In 2007, the National Association of Convenience Stores reported the entire convenience store industry had profits of $3.4 billion dollars; however, they paid credit card interchange fees of $7.6 billion. Over twice the amount of industry profit was paid to credit card providers.

Of course, it has an impact on smaller businesses. Rich Niemann, a friend of mine, who is coming by my office this afternoon in Washington, runs Niemann Foods, a chain of 65 grocery stores based in Quincy, IL. Every year I meet with him, and every year he asks me for help with interchange fees. Last year, Niemann Foods made $6 million in profits but paid $3 million in interchange fees. Those fee payments are going up every year. He has no ability to negotiate any change in those fee amounts. It is a growing expense he can't control.

Rising interchange fees cause many merchants to raise the price of their goods to cover these interchange fees. I don't want to drive small grocery stores out of business or small convenience stores. We don't want prices to go up for consumers across the board because of nonnegotiable credit card fees. The Credit Card Fair Fee Act will help restore fairness. The goal is simple. It incentivizes companies that provide credit cards and the merchants that accept them to sit down together and negotiate fees and terms both sides can live with.

The bill establishes a framework for negotiations and gives both sides a legitimate voice at the table. Under the bill, merchants would receive limited antitrust immunity to negotiate collectively with the providers of card systems over the fees and terms for access to the system. The bill then motivates the merchants and card providers to work out voluntary agreements. It establishes a mandatory period for negotiations.

If they fail to reach a voluntary agreement, the matter would then go to an arbitration-style proceeding before a panel of judges appointed by the Justice Department and the Federal Trade Commission. The judges would collect and disclose full information about credit card fees and costs and then order a mandatory settlement conference to attempt to facilitate a deal. If that fails, the judges would conduct a hearing where the merchants and card providers would each propose what they think is a fair set of fees and terms. The judges then would select the proposal that most closely represents what would be fairly negotiated in a competitive market. This set of fees and terms would govern access to the card system by merchants for a period of 3 years.

The bill contains safeguards to ensure the judges can only select a set of proposed fees and terms that is fair and pro-consumer. But the ultimate goal is to reach a deal before the process gets to the point where the judges would need to issue a ruling.

This is an archaic element of commerce in America that has a direct impact on consumers, the money we pay

for goods and services, as well as the profit margins of a lot of businesses that are struggling. The credit card companies have been unable to justify their interchange fees in terms of the actual cost of processing credit card payments. It is a profit margin on their side for which they are not accountable.

My legislation is supported by the Merchants Payments Coalition, a coalition of retailers, supermarkets, convenience stores, drugstores, fuel stations, online merchants and other businesses. The coalition's member associations collectively represent about 2.7 million stores nationwide, with approximately 50 million employees.

I ask my fellow colleagues in the Senate to take a look at the legislation. I warn them in advance, if they are interested in looking at this issue of credit cards and interchange fees, be prepared. You are going to hear from every bank that issues a credit card, and they are going to tell you the Durbin legislation is the end of the world. But I hope you will also listen to the merchants and retailers in the States you represent. They will tell you this system is unconscionable and unsustainable.

To have the credit card companies dictate these fees to their retailers all across America is fundamentally unfair. We should have arm's length negotiation. We should also have at the Federal Government level a negotiation to determine what is the best arrangement for taxpayers when it comes to paying these credit card fees to the companies that provide credit cards for transactions with the Federal Government. It is not an unreasonable approach.

I hope my colleagues will take a look at this issue, and I hope they will listen to their merchants and retailers back in their States.

GUANTANAMO

Mr. President, I wish to commend the Obama administration for the progress they have made to date on closing the detention facility at Guantanamo Bay. According to media reports today, the Obama administration has reached a historic agreement with the Government of Palau to transfer 17 Guantanamo detainees to this Pacific island. These 17 detainees are Uighurs from China.

The Bush administration determined that all 17 are not enemy combatants and do not pose any risk to U.S. national security. The Bush administration had determined the Uighurs couldn't be legally returned to China, for fear they would be imprisoned and tortured. A Federal Court looked at all the classified evidence against these 17 Uighurs and found there was no legitimate reason to hold them and ordered them released. The President, this administration, is going to follow that court and follow the law.

I commend President Obama and those working with him for finding a solution to what has been a vexing problem by convincing the Government of Palau to accept Uighur detainees. This is the kind of diplomacy we need to achieve a better standing in the world and a more peaceful and secure situation for the United States.

Something else happened yesterday as well. There was an important development. The administration transferred Ahmed Ghailani to the United States to be prosecuted for his involvement in the 1998 bombings of our Embassies in Kenya and Tanzania. Those bombings killed 224 people, including 12 Americans. I have been to Kenya. I saw the bombed building. It was devastating. It is hard to imagine what happened inside that building and nearby when those bombs were detonated. We know 224 people died, including 12 of our own.

I wish to commend President Obama for his determination to hold Ahmed Ghailani accountable for his alleged crimes. For 7 long years, the Bush administration had failed to convict any of the terrorists who planned the 9/11 terrorist attacks. For 7 long years, only three individuals were convicted by military commissions at Guantanamo. Two of those individuals, incidentally, have been released. President Obama has been clear, it is a priority for his administration to bring to justice the planners of 9/11 and other terrorists who have attacked our country, such as Ahmed Ghailani.

Unfortunately, this issue has become very political and very complicated over the last several months. Some of my colleagues on the other side of the aisle have expressed some things on the Senate floor which I don't think are consistent with the security of the United States. Senator MCCONNELL, the distinguished minority leader, and Senator KYL, the distinguished assistant minority leader, have argued we should not transfer suspected terrorists from Guantanamo to the United States in order to bring them to justice. They have argued we cannot safely hold any of these detainees in prison in the United States, even—one of their arguments—during the course of the trial.

When you look at the failed track record of prosecuting terrorists at Guantanamo, it is pretty clear if Ahmed Ghailani isn't prosecuted in the U.S. courts, there is a good chance he will never be punished for his crimes. President Obama made it clear when he said:

> Preventing this detainee from coming to our shores would prevent his trial and conviction. And after over a decade, it is time to finally see that justice is served, and that is what we intend to do.

Even Senator KYL appears to have softened his position. On the floor of the Senate yesterday, he spoke about Ahmed Ghailani and said:

> Everybody acknowledges that there are some people who need to be tried for serious crimes, in effect, like war crimes, and they should be tried in the United States.

I commend Senator KYL for this statement. I think it is a sensible, reasonable position. But let us acknowledge the obvious: If we are going to try these Guantanamo detainees in the United States, we are going to incarcerate them while we try them. There is no other reasonable alternative. If they are found guilty and face imprisonment, what will we do with them? I am glad Senator KYL acknowledged the obvious. Of course, we have to bring these terrorists to justice, and an American court is the best place to do it.

The U.S. Government frequently brings extremely dangerous individuals to the United States for prosecution. Ramzi Yousef—the mastermind of the 1993 World Trade Center bombings, captured in Pakistan—was brought to trial in the United States, convicted, and is now being held in a Federal supermaximum security prison, a convicted terrorist.

Some of my colleagues on the other side of the aisle continue to argue we should not prosecute Guantanamo detainees in U.S. courts because no prison in America is safe to hold them. Ramzi Yousef was held in the Metropolitan Corrections Center in New York during the course of his trial for over 2 years—safely. My colleagues seem to think American corrections officers are not capable of safely holding terrorists. Republican Senator LINDSEY GRAHAM, who is a military lawyer, said:

> The idea that we cannot find a place to securely house 250-plus detainees within the United States is not rational.

What is the record? Today, our Federal prisons—and this is the most updated number from the Justice Department—hold 355 convicted terrorists, including al-Qaida leaders such as Ramzi Yousef, who masterminded the World Trade Center bombing in 1993. No prisoner has ever escaped from a Federal supermaximum security facility. Clearly, we know how to hold these terrorists safely and securely so no one in America is at risk.

Unfortunately, some on the other side of the aisle continue to argue that we should keep Guantanamo open at all costs. I disagree. I believe, President Obama believes, and I think many Americans believe that closing Guantanamo is an important national security priority. But it isn't just the President—and President Bush, for example—who want to close Guantanamo. Among those military and security leaders calling for the closing of Guantanamo are: GEN Colin Powell, the former Chairman of the Joint Chiefs of Staff and former Secretary of State; Republican Senators JOHN MCCAIN and LINDSEY GRAHAM; former Republican Secretaries of State James Baker and Henry Kissinger and Condoleezza Rice; Defense Secretary Robert Gates, first appointed by President Bush; ADM Mike Mullen, the Chairman of the Joint Chiefs of Staff; and GEN David Petraeus.

Yesterday, Senator KYL made a statement taking issue with some of

my earlier comments about Guantanamo.

Senator KYL asked: ''What is wrong with the prison at Guantanamo?''

Let me respond to Senator KYL's question. What is wrong with Guantanamo is that it is a recruiting tool for al-Qaeda and other terrorists.

That is not just my opinion. That is the opinion of our military leaders, based on their experiences fighting the wars in Iraq and Afghanistan.

Chairman of the Joint Chiefs of Staff Mike Mullen said:

> The concern I've had about Guantanamo is it has been a recruiting symbol for those extremists and jihadists who would fight us. That's the heart of the concern for Guantanamo's continued existence.

General David Petraeus said Guantanamo is, ''a symbol that is used by our enemies to our disadvantage. We're beat around the head and shoulders with it.''

And Defense Secretary Robert Gates said:

> Closing Guantanamo is essential to national security. It has become a rallying cry and recruitment tool for our enemies—endangering the lives of our soldiers in the field, diminishing the willingness of American allies to help wage the fight against al-Qaida and undermining the moral authority of the country.

Of course, Senator KYL is entitled to his point of view and I respect him and count him as a friend. But he offers no evidence to support his view, certainly no evidence that compares with those I have quoted here, starting with Gen. Colin Powell.

Not only is Guantanamo a recruiting tool for terrorists in the Middle East. There is evidence that al-Qaida is actually recruiting terrorists in Guantanamo itself. McClatchy Newspapers conducted an extensive investigation and concluded:

> Instead of confining terorists, Guantanamo often produced more of them by rounding up common criminals, conscripts, low-level foot soldiers and men with no allegiance to radical Islam . . . and then housing them in cells next to radical Islamists.

McClatchy found that, ''Guantanamo became a school for jihad'' and ''an American madrassa.''

Rear Admiral Mark Buzby, the former commander of Guantanamo's detention facility, said, ''I must make the assumption that there's a fully functioning Al-Qaeda cell here at Guantanamo.''

Senator KYL also continues to claim that no one was abused at Guantanamo and that there is no connection between the abuses at Abu Ghraib and Guantanamo. I commend him for his reading of the Senate Armed Services Committee Report.

But the Senate Armed Services Committee issued a bipartisan report that reached a different conclusion. Senator LEVIN, the chairman of the Armed Services Committee, and Senator MCCAIN, the ranking member of the committee, found, ''Secretary of Defense Donald Rumsfeld's authorization of aggressive interrogation techniques for use at Guantanamo Bay was a direct cause of detainee abuse there.''

Senators LEVIN and MCCAIN also concluded, on a bipartisan basis, that there was a connection between the abuses at Abu Ghraib and Guantanamo. They said:

> The abuse of detainees at Abu Ghraib in late 2003 was not simply the result of a few soldiers acting on their own. Interrogation techniques such as stripping detainees of their clothes, placing them in stress positions, and using military working dogs to intimidate them appeared in Iraq only after they had been approved for use in Afghanistan and at GITMO.

And, as I said yesterday, Susan Crawford, a top Bush administration official, concluded that Mohammad Al-Qahtani, the so-called 20th hijacker, could not be prosecuted for his role in the 9/11 attacks because he was tortured at Guantanamo Bay.

For many years, President Bush said that he wanted to close the Guantanamo detention facility, and there were few, if no complaints from the Republican side. But the President never followed through on his commitment.

Now that President Obama has made that same call, we hear this chorus of opposition. I think President Obama has accepted the challenge—the challenge to make certain that these detainees are treated in a responsible way; that those who should stand trial will stand trial for their crimes and war crimes; that those who cannot be brought to article 3 courts in America should be tried before reformed military tribunals that have rules of evidence and procedure more consistent with our values and laws; that some will be returned, like the Uighurs, if they pose no threat, to places where they cannot threaten the United States and that some will be kept in detention because they continue to be a threat to our Nation. That is a responsible course of conduct. It deserves bipartisan support.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

THE SECOND ''CAR CZAR'' AWARD

Mr. ALEXANDER. Mr. President, this is the ''Car Czar'' award for Wednesday, June 10, 2009. It is a service to taxpayers from America's new automotive headquarters: Washington DC.

It is the second in a series of ''Car Czar'' awards to be conferred upon Washington meddlers who distinguish themselves by making it harder for the auto companies your government owns to compete in the world marketplace.

On Monday, I presented the very first ''Car Czar'' award to the Honorable BARNEY FRANK of Massachusetts for interfering in the operation of General Motors. Congressman FRANK, who is chairman of the House Financial Services Committee, intervened last week to save a GM distribution center in his Massachusetts congressional district. The warehouse, which employs some 90 people, was slated for closing under GM's restructuring plan. But Mr. FRANK put in a call to GM CEO Fritz Henderson and, lo and behold, the facility has a new lease on life according to the Wall Street Journal. Mr. FRANK, of course, is chairman of the House committee that recently orchestrated paying $62 billion in taxpayer dollars to give the U.S. Treasury 60 percent ownership of General Motors and 8 percent ownership of Chrysler.

Now, for this second ''Car Czar'' award, there are many deserving contenders.

For example, this afternoon the Honorable CHRIS DODD, Mr. FRANK's Senate counterpart, is chairing a Banking Committee hearing featuring two of the administration's chief meddlers in Washington-owned car companies: Mr. Ron Bloom, a senior advisor on the auto industry at Treasury and Mr. Ed Montgomery, White House Director of Recovery for Auto Communities and Workers.

Tomorrow, over in the House, the Financial Services Committee will hold a hearing on salaries of workers in companies the government owns.

Another obvious contender for the award is the administration's new Chief-Price-Fixer for the cost of labor, Mr. Kenneth Feinberg who will review and approve how managers of car companies are paid. According to the New York Times article on June 8, Mr. Feinberg is likely not just to tell Government-owned car companies and banks how much to pay people, it is likely ''everyone else's compensation will be monitored, too.''

But there is time next week to honor all these worthy contenders. Today's ''Car Czar'' award clearly should go to the Members of the Wisconsin and Michigan and Tennessee congressional delegations, each of whom met today in Washington with GM executives, imploring them to build small cars in our home States. In Tennessee's case, of course, we were talking about the Saturn plant in Spring Hill, recently placed on standby.

In other words, I am giving the ''Car Czar'' award today to, among others, myself—the senior Senator from Tennessee.

Now, in my own defense, as Mr. FRANK's spokesman said when Mr. FRANK was caught calling GM about the warehouse in Massachusetts—I was ''just doing what any other Congressman would do'' in looking out for the interests of his constituency. But that is precisely the reason for these ''Car Czar'' awards. As the Wall Street Journal put it, ''. . . that's the problem with industrial policy and government control of American business. In Washington, every Member of Congress now thinks he's a czar who can call ol' Fritz and tell him how to make cars.''

But consider for a moment the implications of all 535 of us in Congress regularly participating in such incestuous behavior. It is one thing, as I did in 1985 as Governor, to argue to General Motors to put the Saturn plant in Tennessee right next to the Nissan plant. That was an arm's length transaction.

It is quite another thing for me as U.S. Senator and a member of the government that owns 60 percent of the company, to urge GM executives to build cars in my State. I can pretend I am making my case on the merits: central location, right to work laws, four-lane highways, hundreds of suppliers, low taxes, a successful Japanese competitor 40 miles away. But my incestuous relationship as owner taints the entire affair.

So I will continue to confer ''Car Czar'' awards—seeking to end the incestuous nature of these meetings and time-wasting hearings—until Congress and the President enact my ''Auto Stock for Every Taxpayer'' legislation which would distribute the Government's stock in GM and Chrysler to the 120 million Americans who paid taxes on April 15. Such a stock distribution is the fastest way to get ownership of the auto companies out of the hands of meddling Washington politicians and back into the hands of Americans in the marketplace. It is also the fastest way to allow the car company managers to design, build and sell cars rather than scurry around Washington—under oath—answering questions and being instructed by their political owners how to build cars and trucks.

Distributing the stock to the taxpayers also may be the fastest way for Congressmen to get themselves re-elected. According to the Nashville Tennessean, an AutoPacific survey reports that 81 of Americans polled agree ''that the faster the government gets out of the automotive business, the better.''

Now, here is an invitation for those who may be listening: if you know of a Washington ''Car Czar'' who deserves to be honored, please email me at CarAward@Alexander.Senate.gov, and I will give you full credit in my regular ''Car Czar'' reports here on the floor of the United States Senate.

And after you write to me, I hope you will write or call your Congressman and Senators and remind them to enact the ''Auto Stock for Every Taxpayer Act'' just as soon as General Motors emerges from bankruptcy. All you need to say when you write or call are these eight magic words, ''I paid for it. I should own it.''

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. CARDIN. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH CARE

Mr. CARDIN. Mr. President, I am glad we are now engaged in the health care debate, but this debate is long overdue. I congratulate the Obama administration for taking on the tough issues. This is not an easy subject in order to reach the type of consensus necessary in order to pass major legislation. There are a lot of special interests that are going to make it difficult for us to move forward.

I am proud this administration is taking up this issue because we are in a health care crisis in America. I say that because the cost of health care is not sustainable. We spend twice as much as the next most expensive nation in the world per capita on health care—$2.4 trillion a year, 15 percent of our gross domestic product. Those numbers are increasing dramatically each and every year. The cost of health care is not sustainable.

We had a great deal of discussion here about fiscal responsibility and bringing our budget into balance. President Obama is correct. If we do not deal with the escalating cost of health care, it is going to make it virtually impossible for us to bring our budgets into balance in the future—whether it is a Medicare budget or Medicaid budget or a household's budget. We have to do a better job in reining in the cost of health care. America needs to be competitive internationally. We cannot be competitive internationally unless we find a way to bring down the cost of health care.

Family insurance premiums have gone up threefold in the last 8 years alone—much faster than earnings, three times as fast as earnings. The consequences for Marylanders is that they are going into bankruptcy. You have heard it said that we are only one health incident away from filing bankruptcy in America for many families. They have to make difficult choices: Should I really go see a doctor? Is it really that important, because do I really have the money to lay out? It is not covered by my insurance, or I don't have insurance, what do I do?

We have 46 million Americans today who have no health insurance, and it is very costly in the way they enter the system. They use the emergency rooms. They don't get preventive health care. They spend a lot of money. It increased 20 percent over the last 8 years.

In my State of Maryland, we have 760,000 Marylanders, 15.4 percent of our nonelderly population, without health insurance.

We need to reform our health care system. We need to build on what is right in our health care system and correct what is wrong.

What is right is that we have some of the highest quality health care in the world. I am proud that people from all over the world travel to my own State of Maryland to visit Johns Hopkins University or the University of Maryland Medical Center or NIH in order to get their health care needs met or to train their health care professionals. We want to maintain that edge in America, of leading-edge technology to keep people healthy. We have choice in our health care system. I believe that is good. You can choose the health plan in many cases. You certainly can choose your provider in many cases. That adds competition to quality of care in our system.

We have to correct what is wrong. The first thing we have to correct is the cost. We have to bring the cost down.

The first way to bring down the costs is for everyone to be in the system to deal with the uninsured. I congratulate our committee for coming forward with proposals that will include every American in our health care system. I think that is the prerequisite to health care reform.

Second, the proposals that are coming forward that recognize the advantage of preventive health care. In 1997 we amended the Medicare bill to include preventive health care services. Well, that has kept our seniors healthier, living better lives, and being less costly to the system itself by detecting diseases at an earlier stage. In some cases we can even prevent diseases by preventive health care.

That is what we need to do. It saves money. Preventive health care services cost in the hundreds of dollars. Surgery related to diseases not caught in the early stages are in the tens of thousands of dollars. It makes sense economically.

President Obama is right to invest in health information technology. That will save money. It also manages an individual's care in a much more effective way. So there are a lot of ways we can bring down the cost of health care. But let me talk about one issue that has gotten a lot of attention on this floor by some of my colleagues who seem to be opposing health care reform before we even have a bill before us, and that is the conversation about a public insurance option. I am somewhat bewildered by this discussion because I do not hear too many of my colleagues suggesting that the Medicare system should be done away with.

Now, the last time I checked, Medicare was a public insurance program. So let me differentiate because I think this point has been misleading on this floor.

When there is a government option, it does not mean the government provides the health care; it means it pays for the health care, as it does in Medicare. The doctors our seniors and disabled population go to are private doctors and private hospitals, as it should be. They have choice, as they should. The public insurance option just provides the predictability of a plan that will always be there.

My constituents in Maryland remember all too well the private insurance companies within Medicare who were here one day and gone the next day. Thank goodness they had the public option available to them in order to make sure they had coverage. Well, that is not true in Part D today. We do not have a public insurance option.

That was a mistake. We need a public insurance option, first and foremost, to deal with cost. We have to bring down the cost of health care. We have 46 million people without health insurance today. Are we going to let them try to

figure out what private insurance to go to without the controls on cost? That is going to add to the cost in this country, not bring it down.

We have to at least have a comparison on a fair competition between public insurance and private insurance. I favor private insurance. But I want to have a public insurance option because I want the people of Maryland and around the Nation to have choice, to be able to choose the plan that is best for them.

They can stay in the plan they have now if they are satisfied with it. We want them to, and we encourage them to. But we want them to have a choice. We want the market to work. That is why the public insurance option has become more and more important.

Let me point out the two programs that we recently changed. Medicare Advantage. Well, Medicare Advantage is the private insurance option within Medicare that our seniors have the option, voluntarily, to join.

Well, when Medicare Advantage started, Medicare Plus Choice, it was a savings to the taxpayers because we paid the private insurance company 95 percent of what we paid the fee-for-service companies within the public option, saving money for the system. It made sense.

Well, guess what. Today we are paying the Medicare Advantage plans, the private plans, 112 to 117 percent of what we pay those who are in the traditional public option in Medicare. In other words, every person who picks private insurance costs the system money.

The Congressional Budget Office, which is a nonpartisan objective scorekeeper, says the Medicare Advantage premium we pay over what we would pay if they were in fee for service costs the system $150 billion over 10 years. So the public option is not only to offer choice to the people of our country between a plan that they want and it is available to them, whether it is a private plan or a public plan—remember, the providers are going to be private. This is not who provides the benefits; it is who pays for it, who puts together the plan. It will save the system money.

Part D: There is no public option in Part D. Many of us raised that issue back then, that we could have saved taxpayer money and saved Medicare money if we at least tried to keep the private insurance companies honest by having a public plan where we know what is being charged and paid for prescription drugs. Most of it is the cost of medicine. Why can we not have transparency? Why do we have to pay the high overhead costs of private insurance without the competition of a model that could save the taxpayers money and save our system money?

This is not a government takeover, as some of my colleagues have said. Medicare was not a government takeover. Medicare pays for the private doctors and hospitals so the disabled and seniors can get access to health care in America. I think those who make the arguments, which are basically scare tactics, are not adding to the debate anything that is worthy of this issue. This is a very important issue to the people of our Nation. This is our opportunity to fix our system by improving what is right, building on it, and correcting what is wrong.

But let's strengthen the good parts of our system. Let's strengthen those coverages that people are happy about, the employers who are providing health benefits to their employees, where it is working. But let's correct the runaway costs in our system, and let's provide a reasonable way that those who do not have health insurance can get health insurance.

If we can work together, Democrats and Republicans, this is an American problem. This is about America's competitiveness. This is about American families being able to afford their health care. This is about balancing our budgets in the future so America can continue to grow as the strongest economy in the world. But it starts today in this debate about fixing one of the underpinnings of our economy that is out of whack.

We need universal coverage. We need to have options available that will keep health care affordable for all people in this country and provide quality care for each American. That is what this debate is about.

I applaud our committees that are working on this issue. I applaud all of the Members of this body and the House who are seriously engaging in this discussion.

I think we can all learn from each other. If we work in good faith, we can develop a health care reform proposal that will maintain quality but provide access and affordability to every family in America. That should be our objective. I hope we will all work toward that end.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. KAUFMAN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KAUFMAN. I ask unanimous consent to speak as in morning business for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ASME

Mr. KAUFMAN. Mr. President, I rise to congratulate the American Society of Mechanical Engineers on the 125th anniversary of their codes and standards.

As the only serving Senator who has worked as an engineer—indeed, I have a degree in engineering and worked as a mechanical engineer—I was proud to sponsor a resolution acknowledging the lasting impact ASME codes and standards have had on our Nation and on other parts of the world.

Now to non-engineers, codes and standards developed by and for mechanical engineers may sound like a lot of jargon and, candidly, like pretty boring stuff.

But as an engineer, I am proud to say that I believe that the nuts and bolts of how to build things, how to create, how to standardize and grow equipment and industries have been at the very heart of the American economic growth-engine for more than a century.

That kind of nuts and bolts thinking and creativity will be what leads America out of this recession and toward sustained economic growth once again.

So I'm pleased that the Senate has joined me in celebrating a success story of American engineering.

This story begins when ASME was founded in 1880. ASME currently includes more than 127,000 members worldwide.

It is a professional organization which promotes the art, science, and practice of mechanical and multidisciplinary engineering and allied sciences.

One of its chief functions since its founding has been the development of tool and machine part standards, along with uniform work practices to ensure mechanical reliability.

This week, ASME will celebrate its 125th anniversary of codes and standards development.

This is a tribute to the dedicated service of technical experts and engineers, whose efforts resulted in internationally accepted standards—standards that not only enhance public safety but also promote global trade.

Its first published performance test code was entitled ''Code for the Conduct of Trials of Steam Boilers.''

Since then, ASME has developed more than 500 technical standards for pressure vessel technology, electric and nuclear power facilities, elevators and escalators, gas pipelines, engineering drawing practices, and numerous other technical and engineered products and processes.

At present, ASME codes and standards, as well as conformity assessment programs, are used in more than one hundred countries.

Does engineering sound boring to you? Let's hope America's youth don't think so. We need to excite the young minds of thousands and thousands of young Americans about the possibilities of being an engineer, because engineers have always been the world's problem solvers. It is impossible to ignore the effect ASME's codes and standards have had on global development.

During the period of rising industrialization, as machines were expanding in use and complexity on farms and in factories, ASME standards helped to ensure the safety of engineers and workers using these machines.

Today, in our global economy, these codes and standards are continually revised and updated to reflect changes in

technology. As a result, ASME's codes and standards are accepted across the globe and help to advance international commerce. The American Society of Mechanical Engineers has adapted to meet the changes and challenges in the engineering profession. I commend their accomplishments and contributions to the health, safety, and economic well-being of our Nation.

I am pleased that the Senate yesterday approved S. Res. 179.

When I went to college I wanted to be a mechanical engineer, in part because 52 years ago, after Sputnik, the United States was supporting science and engineering on an unprecedented level. America's competitive spirit helped us meet the challenges of those times. Thousands of innovations created myriad new opportunities for growth and development. We can do this again.

The financial crisis should lead to a cultural shift back to the strong foundations of innovation and know-how that have always been the American way. I am glad that the federal government is again investing strongly in supporting the basic scientific, medical, and engineering research that will spur the discovery and innovations to create millions of new jobs and shape a bright American future.

I thank my fellow Senators for joining with me in celebrating one small chapter in the American economic success story, with hope that we can inspire similar successes in the coming years.

BRIAN J. PERSONS

Mr. President, I wish to speak about our excellent Federal workforce.

In my years of government service, I have met so many wonderful people who give so much of themselves for the benefit of us all. That is why I believe it essential for the American people to have confidence in our Federal employees.

Americans need to know that they can place their trust in those charged with carrying out the people's work.

Our government is filled with talented individuals performing their jobs with excellence.

I cannot count—I literally cannot count—the Federal employees who deserve to be praised here in this Chamber, because that number is so great. But I hope to share one story today that is exemplary of our civil servants overall.

The ancient philosophers used to compare the government of a state with that of a vessel at sea.

In order to keep the ship afloat, to keep it headed in the proper direction, it required a captain and crew who were disciplined and responsible. Moreover, everyone on board—down to the lowest rank—had a job to do, and every task was critical.

So it is with government.

Every Federal employee, no matter how large or small one's job, keeps our ship of state afloat and sailing ever onward.

I have not chosen to reference this analogy by chance. Rather, it fits well with the story of a hardworking and accomplished civil servant whom I wish to recognize today.

I spoke earlier about the effect of engineers on our economy and our communities. The Federal employee I honor today has spent more than a quarter of a century working as a civilian engineer for the Navy Department.

Although today Brian Persons has risen to become executive director of the Naval Sea Systems Command, or NAVSEA, he began his public service as a ship architect at the Long Beach Naval Shipyard. A Michigan native and graduate of Michigan State with a degree in civil engineering, Brian went to work in 1981 for the Navy Department, designing and maintaining the ships of our fleet. Brian distinguished himself in the design division at Long Beach, and he was made a supervisory architect within a few years. While there, he worked on overhauls of surface ships, including the great battleships U.S.S. New Jersey and the U.S.S. Missouri. In 1988, when the U.S.S. Samuel B. Roberts struck a mine in the Persian Gulf, the Navy sent Brian to Dubai to provide analysis and repair options.

Although he was only asked to spend a week in the gulf, Brian remained with the stricken vessel for 45 days until it was again seaworthy.

Describing the experience years later, he said:

I am still amazed at the authority I was given to execute this project. I was lucky to have such an opportunity at such an early stage in my career.

I want our Nation's graduates to know that careers in public service are full of opportunities like the one given to Brian.

Federal employees at all levels get to work on exciting and relevant projects every day.

After his superb performance in Dubai, Brian was given a series of challenging jobs in the NAVSEA Commander's Development Program. Just 10 years after he first began his career, the Navy Department promoted Brian to be the director for maintenance and modernization under the assistant secretary for research, development, and acquisition. In this role, which he held for 5 years, he was responsible for overseeing policy on ship maintenance and modernization as well as the Navy's nuclear, biological, and chemical protection programs.

Brian returned to NAVSEA in 1996 and has worked in various roles there over the past 12 years. For his dedicated service in government, Brian was honored with a Meritorious Presidential Rank Award in 2004 and won the prestigious Distinguished Presidential Rank Award last year. This year, he was appointed as executive director of NAVSEA, its most senior civilian executive.

In addition to his work as an engineer and a manager, throughout the years Brian has served as a role model for those working with him, including a number of colleagues from traditionally underrepresented minority groups, whom he has mentored as they sought leadership positions in the Department.

This is truly the kind of service and mentorship we need to promote among engineers and other science professionals. Engineers can play an important role in bettering our communities and promoting education among our students.

I am glad we were able to include funding for service opportunities of this kind in the Serve America Act earlier this year. I call again on my colleagues and on all Americans to join me in recognizing the contributions of Brian Persons and all of the engineers, scientists, and technicians who continue to ensure that our ships of state remain seaworthy and on a forward course.

I honor their service and that of all our hard-working Federal employees.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MERKLEY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WICKER. I ask unanimous consent to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH CARE REFORM

Mr. WICKER. Mr. President, of all the complex issues the United States will deal with in this Congress, none will be more important than health care reform. Of all the momentous decisions we will make over the next few months, none will be more consequential or long-lasting than the votes we may take regarding the one-sixth of the American economy which comprises our health care system. If we get it right, we could devise a program that makes health care more accessible and affordable, provides health coverage to millions of Americans who are currently without health insurance, relieves Americans from worry about the effect changing jobs will have on their health care, saves lives through an increased focus on prevention and wellness, saves money by curbing the out-of-control growth in government health care programs, keeps patients and families in control of their health care choices, and makes doctors the decisionmakers on treatment options.

We have a great opportunity before us to improve the American health care system, but we run a perilous risk if we do not act wisely and carefully. We can fix our broken health care system by making it more accessible and affordable for Americans, and we can do so without jeopardizing quality, individual choice, and personalized care.

The American people need us to act on this issue, but they do not need or

want us to act rashly. We do not need to enact a Washington takeover or a scheme that would inevitably lead to a government takeover of one-sixth of our gross domestic product.

I recently spoke with a resident of a country that is a major U.S. ally. He espoused the benefits of his country's government health care program, explaining in particular detail how the program works there. But then I posed a question: What happens in your country if you get cancer? He smiled and said: If I get cancer, I am going to the United States. He is going to the United States. It was a very telling answer that points up a profound truth: There are many things we need to fix about American health care, but there are a number of things we do right. There are a number of things right about our system, and we don't need to risk losing those things that today give Americans the highest quality health care system in the world.

Nine out of ten middle-aged American women have had a mammogram—90 percent of American women—compared to less than three-fourths of Canadian women. More than half of American men have had a prostate test compared to less than one in six Canadians. Nearly one-third of Americans have had a colonoscopy compared to less than 5 percent of Canadians. These are statistics we need to be proud of as compared to our Western allies.

In addition to this focus in America on prevention, we also spend less time waiting for care than patients in Canada and the United Kingdom. Canadian and British patients wait about twice as long—sometimes more than a year—to see a specialist. We don't need health care reform that moves us in that direction. Mr. President, 827,429 people today, at this very moment, are waiting for some sort of procedure in Canada, and 1.8 million people in England are waiting for a hospital admission or outpatient treatment. They are having to wait for that in England.

We Americans also have better access to new technologies such as medical imaging than patients in Canada or the United Kingdom. Americans are responsible for the vast majority of all health care innovations. The top five U.S. hospitals—only five top U.S. hospitals—conduct more clinical trials than all the hospitals in any other single developed country. Only the top five outrank any other country in the world in clinical trials. We ought to be proud of that. We ought not to enact any program that would jeopardize that type of innovation.

Since the mid-1970s, the Nobel Prize in medicine or physiology has gone to American residents more often than recipients from all other countries combined. We get results based on our innovation and our research in the United States of America.

All these numbers translate into one very important fact: Americans have a better 5-year survival rate than Europeans for common cancers. For example, in the area of colon cancer, we have a 65-percent, 5-year survival rate in America, compared to only 50 percent in the United Kingdom. For prostate cancer, we have a 93-percent survival rate for 5 years in the United States; only 77 percent in the United Kingdom. In breast cancer, 90 percent of Americans who suffer from breast cancer have a 5-year survival rate; only 82 percent in the United Kingdom. For thyroid cancer that figure is a 94-percent, 5-year survival rate and only 75 percent in the United Kingdom.

Put another way, breast cancer mortality is 52 percent higher in Germany with their government-run system than in the United States, and breast cancer mortality is 88 percent higher in the United Kingdom with their government-run health care system. Prostate cancer mortality is 604 percent higher in the United Kingdom and 457 percent higher in Norway. Is there a genetic predisposition for the people of Norway to die of prostate cancer or of German women to have breast cancer? I don't think so. I think these numbers, these stubborn facts reflect that our American system of innovation and detection and treatment is a good thing, and as we improve and fix our system, we need to be careful to maintain that type of quality.

There are broken parts of our system, to be sure, but my point today is to urge this body to consider the consequences of all the options we will consider. There is no question we need to make health care more affordable and we need to expand access. Republicans support providing affordable access to coverage for every American, and we can do that without a Washington, DC, takeover of health care. What we cannot afford the risk of doing is eroding the quality of care in pursuit of our goals this year. The surest way to destroy quality is to hand the reins of health care over to the Federal Government.

I recently had the opportunity to discuss health care with a member of the British House of Commons. That member of Parliament said: Whatever you do, do not do what we did in the United Kingdom.

A Washington takeover of health care would result in a stifling of innovation. I am convinced it would result in long waits. As we consider a so-called public option, a public plan, we need to ask ourselves: Will it lead, as I believe it will, to a one-size-fits-all Washington takeover of health care and inevitably mean that our citizens will be denied and delayed the health care we need? We need to be careful as we answer that question. I regret to say the plan I see taking shape on the other side of the aisle would result in either a politician or a bureaucrat making your health care decisions instead of you and your doctor. I urge my colleagues to protect innovation and to protect quality.

I am convinced we can protect the doctor-patient relationship and make health care more affordable and accessible for all without jeopardizing the quality I have spoken about this afternoon. I believe all of us in this body want a solution that works for Americans. There is common ground to be found that would continue the opportunity for the United States to be that world leader in quality. Congress and the American people need to pay close attention as we proceed this summer and this fall on one of the most important debates in our time.

Thank you. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OBSTRUCTIONISM

Mr. REID. Mr. President, I wanted to say this to the occupant of the Chair personally, but I will take the opportunity to say it now. The presentation the Senator made on the floor regarding health care was stupendous, terribly impressive. I am going to take much of what the Presiding Officer said today and use it in the information I give people in Nevada and the presentations I am making on the floor. It was very good.

As the health care debate has heated up this week, Republicans have once again rolled out one of their standard, stale talking points: They question the efficiency of our government. When all else fails, all they do is berate the government.

But if Republicans want to have an honest debate about how our government operates, I think one of the first things I would suggest is that they should start looking in the mirror at themselves.

Today, Republicans are wasting more taxpayer time and more dollars for no good reason. The tobacco bill on the floor right now is both responsible and overdue. After making us wait out all the 30 hours of procedural time before even moving to the bill—Mr. President, the 30 hours isn't all of it. To get to that point, you have to file cloture, which takes 2 days, and then we have the 30 hours—a total waste of time. Republicans are now making us wait another 30 hours before we can vote on this bill. So it is 30 hours just to move to it, and then 30 hours once we are on it.

Let me reiterate how important the bill we are wasting time on not doing is to the American people. Every day, 3,500 Americans try a cigarette for the first time, and the vast majority of them are children. Nationwide, 3½ million high schoolers smoke; 3½ million boys and girls in high school smoke. That is more kids than participate in athletics in our schools who are smoking. Tobacco companies make money hand over fist by marketing and selling their poisonous products to our kids.

The bill before the Senate takes smart steps to keep our children and families healthier and keep the tobacco companies honest. It will make it harder for those companies to sell tobacco to children; help those who smoke overcome their addictions; it will make tobacco products less toxic for those who cannot or do not want to stop.

We have tried in good faith since last week to reach agreement with Republicans on amendments to this bill. Our floor staff has given the Republican floor staff a finite list of both Democratic and Republican amendments that we wanted to vote on as we consider the bill. With rare exception, the amendments were germane. If not germane, they were arguably germane. But no. These amendments included three from Senator HAGAN, and one each from Senators COBURN, ENZI, BUNNING, and LIEBERMAN.

Unfortunately, despite repeated efforts to move forward, our Republican colleagues have said no every time.

Republicans are also slowing down our government in another way. In the few short months since President Obama took office, Republicans held up many of his nominees for crucial positions. There are 25 being held up right now, as we speak. Let me give you a few of them. We have had to have cloture votes this year on the Secretary of Labor; the Deputy Attorney General, the No. 2 person for a massive Justice Department; the Deputy Secretary of the Department of the Interior, which is like the Chief of Staff for the Department of the Interior; two members of the Council of Economic Advisers; and, incredibly, America's Ambassador to Iraq, Chris Hill. They held him up for a long time. Every time I spoke to Secretary Gates, he wanted to know where his Ambassador was, somebody to run that country—at least American interests in that country.

Today, they are holding up 25 or more qualified and noncontroversial nominees, including Rand Beers, nominated to be Under Secretary of the Department of Homeland Security, a pretty important position; Cass Sunstein, nominated to head the Office of Management and Budget's Information and Regulatory Affairs division. You could go to any law school in America today and ask them to name the top 10 academics in law schools, and Cass Sunstein's name will be one of the 10 on everybody's list. But he is not good enough for the Republicans to get him cleared; Hilary Chandler Tompkins, nominated to be the Solicitor for the Department of the Interior. That is the lawyer there. They have 70,000 employees. Secretary Salazar thinks it is a good idea that he has a lawyer there. They are not going to allow that; William Sessions, nominated to be Chair of the U.S. Sentencing Commission. Listen to this one. We have been told the reason he is not going to be approved is because he is from Vermont, and Senator LEAHY is chairman of the Judiciary Committee. They want to embarrass a friend, the chairman of that committee, Chairman PAT LEAHY; Harold Koh, nominated to be the State Department's legal advisor. Just like the Interior Department, the State Department, Secretary Clinton wants a lawyer there, in that huge, most important office. But no. Robert Grove, nominated to be Director of the Census—no.

I have only mentioned five. There are 20 others. The Republicans recklessly refuse to confirm our new Ambassador to Iraq. Listen to what they are doing now. They are holding up LTG Stanley McChrystal, an eminently qualified soldier, whom President Obama and Secretary Gates chose to be our new commander in Afghanistan. I met him in my office the other day. This is a man with the military in his blood. His father was a great general. His father won five Silver Stars fighting for our country around the world. Stanley McChrystal is an expert in counterinsurgency, which we need so badly in Afghanistan. But, no, we are not going to get him approved—at least for now.

Republicans are so opposed to everything, they even oppose putting people in some of the most important positions in our government. We believe—the majority, Democrats—that those who have been chosen to serve our country must be able to get to work without delay.

Republicans across the country agree with that, also. But we have 40 Members of this body—Republicans—who don't represent Republicans across this country. Republicans, if given a chance, wouldn't they approve LTG McChrystal? Of course they would. And the other people I mentioned. We believe those who have been chosen to serve our country must be able to get to work without delay. President Obama was elected. Shouldn't he have the people he wants to work with him? Perhaps those listening think this is how the Senate always operates. The occupant of the chair is a new Senator. This isn't how it used to operate.

Let me put these delays into context. In the first 4 months of the Bush administration—the second Bush administration—I am sure it was the same in the first Bush administration—when the Senate was controlled by the President's party, and we were in the minority, there wasn't a single filibuster of a Bush nominee—not one. But in the first 4 months of the Obama administration, Republicans have filibustered eight of his nominees. Those are the ones we had to file cloture on. I have indicated that there are many others. With the constraints we have in the rules of the Senate, I cannot file cloture on every one of these. Those filibusters in the first 4 months of Senator Obama's administration are twice as many as President Bush faced in his first 4 months.

I hope people who are listening or watching understand this: We are not berating Republicans in Oregon or in Nevada or across the country. What I am saying is the Republicans here in the Senate—40 of them—are not being fair to our President and our country.

Last year, after Republicans held up the work of the Congress more than any other time in history—remember, we had 100 filibusters last year—the American people rejected the Republican status quo. They said no to Republicans' just-say-no strategy. I would hope they would learn that the American people don't like this—Independents, Democrats, and Republicans don't like it. We want to work together.

Take health care. They have seats at the negotiating table. We want to work with them. Energy, the same thing. There is no question the American people are taking notice, and they are fed up with petty partisan games. There is no question that these reckless tactics have consequences.

Republicans delay and delay and delay to their own peril. The truth is that all Americans suffer. It is time that the Republicans let us get to work and allow President Obama to have his nominees, and let's get this bill off the floor. Every day we wait, 3,500 more people are subject to being addicted to tobacco.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BURRIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURRIS. Mr. President, I would like to speak for about 3 or 4 minutes.

The PRESIDING OFFICER. The Senator is recognized.

HEALTH CARE REFORM

Mr. BURRIS. Mr. President, for far too long, this Nation's broken health care system has limped along badly and in need of serious reform. Many in Washington have lacked either the foresight or the political will to take on this issue. For those who have tried, it has been almost impossible to get anywhere. Even today, the President's health care proposal is under attack from both the right and the left. I think we need to do better. Controversy should not drown out conversation.

The time has come to cast aside the constraints of partisanship, stop bickering, and start talking about real change. The American people have had enough. It is time to get to work.

The facts are plain: tens of millions of Americans are uninsured and underinsured. Many of these are children. Even employer-sponsored coverage is in jeopardy. Businesses are being drained by skyrocketing costs, and many have cut benefits. High premiums, rising copayments, and expensive prescription drugs are driving American families to the brink.

Can we stand by and watch as unreasonable health care costs cripple families who are already struggling? No, we cannot.

Can we allow this crisis to deepen, leaving more and more hard-working Americans behind? No, we cannot.

It is the solemn duty of this Congress to follow President Obama's lead and enact swift, responsible reform. We can cut costs and improve coverage. We can make the system smarter and less wasteful. We can empower individuals and families to make important decisions, not giant corporations or government bureaucracies. We can and we must make quality, affordable health care available to every single American.

While I support the role insurance companies play in our health care system, I strongly believe a public option should also be available. This would restore accountability to the system and increase competition, driving prices down and making good coverage, private or public, more affordable for everyone.

American businesses and families have waited far too long for meaningful health care reform. The time to act is now.

Some of my colleagues have been working to fix our broken system for many years. Senator KENNEDY has been a leader on this issue throughout his career. This is the moment he and many others have been working toward. We must seize this opportunity to reform health care in America. I urge my colleagues to work with President Obama, as well as Senator KENNEDY, to make sure everyone has access to quality, affordable coverage.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURRIS). Without objection, it is so ordered.

SOTOMAYOR NOMINATION

Mr. SESSIONS. Mr. President, I wish to assure our Members, the American people, and Judge Sotomayor that our committee is going to do its best to have a hearing on her confirmation that would be worthy of the serious responsibility we have and that the American people will feel is fair. I hope they will say it is the best hearing we have ever had.

I have to tell you, though, things are moving faster than I would like to have seen them move, and it does cause some difficulties for us. As I discussed on the floor yesterday, the Republican members of the Judiciary Committee are deeply concerned about this process being moved this rapidly. Yesterday, Chairman LEAHY unilaterally announced that the hearings would begin on July 13, some 48 days from the announcement of this nomination. I won't go into a lot of detail, but I would note that in the recent three Supreme Court nominees, Justice Breyer's hearing was 60 days after the announcement, Justice Roberts'—the one that has been most cited and was the shortest—was 55, and Justice Alito's was 70. And I would note that Justice Roberts had 370 cases, whereas Judge Sotomayor has 3,500-plus cases to review. So I think, to quote Senator SCHUMER and Senator LEAHY in remarks they made previously, it is better to do it right than to do it too fast.

I would note that late last week, the White House sent her answers to the questionnaire we send to all the nominees, requiring a good deal of information, and that is done on a bipartisan basis. Those answers were sent forward with great fanfare. In a press release from the White House Counsel's Office, the Obama administration proclaimed that they set a record by completing the process in just 9 days. But this is a confirmation process, not a confirmation race. I think the White House should focus more on having thorough and complete answers to the questionnaire, not on entering the ''Guinness Book of World Records'' for the fastest response from a Supreme Court nominee.

We know now that Judge Sotomayor omitted or failed to include key information and has provided incomplete and sometimes contradictory responses to the questionnaire. The responses are not satisfactory. So today all seven Republican members of the Judiciary Committee, who have been through this—most of them—for some time and seen these issues develop before, have written to ask that the nominee fulfill her duty to provide clear and complete answers to our questions in order to obtain quite a bit of information that is now not available and should have been included.

Mr. President, I ask unanimous consent to have that letter printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, June 10, 2009.

Hon. SONIA SOTOMAYOR,
Office of the Counsel to the President, The White House.

DEAR JUDGE SOTOMAYOR: Thank you for providing your questionnaire, assembled materials, and June 6, 2009 questionnaire supplement to the Judiciary Committee. Committee staff are reviewing your questionnaire responses and attachments and have noted a number of apparent omissions. In addition, we believe that some of your responses are incomplete. In view of these concerns, we would respectfully ask that you revisit the questionnaire and provide another supplement as soon as possible. If you believe that your questionnaire is fully responsive, we would appreciate an explanation to that effect.

To assist you in completing your questionnaire, below are some of the potential omissions detected to date:

(1) Question 6 asks for your employment record. Although you indicate that you were a member of the board of directors of the State of New York Mortgage Agency, it appears that you also served on the Administration and Personnel Committee (or the Program Committee) and as a member of the board of Community Planning Board #6. In addition, you indicate that you served as a member and vice president of the board of directors of the Puerto Rican Legal Defense & Education Fund; however, in response to Question 25, you indicate that you served as First Vice President. Please clarify your response and supplement as necessary.

(2) Question 12(a) requires lists and copies of materials written or edited. You have been widely described as an editor of the Yale Law Journal and as Managing Editor of the Yale Studies in World Public Order. However, you have not provided any copies of materials from either publication. Please provide the Committee with copies of any materials you edited during your tenure as an editor of both law reviews.

(3) Question 12(b) requires copies and or/descriptions of certain reports, memoranda, or policy statements prepared by specified organizations. You have stated that ''As a member of various court committees, I have prepared and contributed to numerous reports and memoranda on court issues, which relate to internal court deliberations and are not available for public dissemination.'' However, the question is not limited to publicly available reports. Please provide such reports and memoranda.

(4) Also with respect to Question 12(b), you initially omitted a report concerning the death penalty that you drafted during your time on the Board of the Puerto Rican Legal Defense & Education Fund. We would appreciate confirmation that a thorough review of those records has been completed, given the initial omission, and that you have provided all relevant documents to the Committee in response to this question.

(5) Question 13(g) requires a brief summary of and citations for all opinions where decisions were reversed by a reviewing court or where the judgment was affirmed with significant criticism. For opinions not officially reported, copies are requested. Although you indicate with respect to Bernard v. Las Americas Communications, Inc., that there was no formal opinion, you make no such representation with respect to the United States v. Gottesman opinion or the United States v. Bauers opinion—yet it does not appear that copies of these opinions have been provided. Please clarify your response.

(6) Question 16(d) asks about trial experience and requires ''opinions and filings'' for cases going to verdict, judgment, or final decision. For three cases you have indicated that ''The Manhattan District Attorney's Office is searching its records for information on this case.'' Please provide us with this information as a supplement to the questionnaire.

(7) Also with respect to Question 16(d), you state: ''I tried an additional 14 cases during my time as an assistant district attorney, from 1979 to 1984. The Manhattan District Attorney's Office is searching its records for further information on these cases.'' Please provide us with this information as a supplement to the questionnaire.

(8) Question 16(e) asks about appellate practice. Nominees are asked to provide copies of briefs and (if applicable) oral argument transcripts. You state: ''I have requested the briefs and any available transcripts from these cases from the Clerk of the Court of the Second Circuit on May 30th and will forward to the Committee as soon as I receive them.'' Please provide us with this information as a supplement to the questionnaire.

We are also concerned that some of your responses fail to provide the Committee with the information to which it is entitled in reviewing your nomination.

(1) In response to Question 11(b), you state that you are a member of an organization,

the Belizean Grove, that discriminates on the basis of sex. However, you indicate that you ''do not consider the Belizean Grove to invidiously discriminate on the basis of sex in violation of the Code of Judicial Conduct.'' Please explain the basis for your belief that membership in an organization that discriminates on the basis of sex nonetheless conforms to the Code of Judicial Conduct.

(2) Question 12(d) requires a list of speeches, remarks, lectures, etc., given by the nominee or, in the absence of prepared texts/outline/notes, then a summary of the subject matter (not a topic or a description). We believe that numerous entries in your list do not provide a ''summary'' of your remarks; instead, they set forth general topics. For example:

''I spoke on Second Circuit employment discrimination cases'';

''I spoke at a federal court externship class on Access to Justice'';

''I spoke on the United States Judicial System'';

''I participated in a symposium on post-conviction relief. I spoke on the execution of judgments of conviction'';

''I spoke on the implementation of the Hague Convention in the United States and abroad'';

''I participated in an ACS Panel discussion on the sentencing guidelines'';

''I participated in a roundtable discussion and reception on 'The Art of Judging' '';

''I contributed to the panel, 'The Future of Judicial Review: The View from the Bench' at the 2004 National Convention. The Official theme was 'Liberty and Equality in the 21st Century.' ''

This list is not exhaustive.

In addition, we are concerned about the fact that you have failed to provide a draft, video, or transcript for more than half of your speeches, remarks, lectures, etc. According to your questionnaire, you have identified 191 occasions responsive to the questionnaire. For 98, you stated that you could not locate any record, for one you stated that you gave a standard speech, for two you cross-referenced a different speech, for 81 you provided a draft or video, and for eight you provided news clippings instead of a draft, transcript or remarks. We are particularly troubled because there may well be transcripts available for certain remarks: for example, a transcript of the 2004 panel entitled ''The Future of Judicial Review: The View from the Bench'' was available online.

Please advise us of the process you undertook to search for these speeches, and for those that you are unable to provide to the Committee, please provide a more thorough explanation of the content of each speech.

Although you have provided a great deal of information to the Committee, and we appreciate your efforts, it is important that your information be complete to permit the Committee to properly evaluate your record in the short time that has been provided.

Thank you for your attention to this matter. We look forward to your receiving your supplemental answers as soon as possible.

Sincerely,

JEFF SESSION.
CHUCK GRASSLEY.
JOHN CORNYN.
JON KYL.
TOM COBURN.

ORRIN HATCH.

Mr. SESSIONS. Mr. President, the judge has provided our committee with a good deal of information. We also appreciate that the judge has already once recognized that her quick questionnaire was incomplete. The issue was raised, and she provided the committee with additional information on June 6 which really should have been in the first response. However, we are still concerned with several aspects.

As I have already said, the minority leader reiterated this morning that members of the Judiciary Committee and the full Senate need a complete and thorough record in order to make informed judgments on this nomination.

This is a lifetime appointment. It is our one chance in Congress to get it right. A Justice on the Supreme Court, if not faithful, has the power to actually alter the Constitution in addition to faithfully follow it, and sometimes I think that is what they have done.

We need to know what kind of judges we are going to get. Does this judge understand that he or she will be under the law, subordinate to the law, one who must faithfully follow the law or do they believe they are above the law and have the freedom and the ability to interpret it in new and novel ways which might seem to further some agenda he or she might have, if they are on the bench? I think the American people are concerned about that. I think they are right to be concerned about that. Decisions have been rendered, in my opinion, that are not faithful to the Constitution, not required by the Constitution.

Those are things we need to talk about and do it in a fair way and do it at a high level. There is no need to be personal about it.

The oversights and errors in this questionnaire are the product of trying to rush through a nominee with one of the most lengthy records in recent history, maybe ever, to the Supreme Court, in one of the shortest timeframes in history.

I think we should try to get it right. I believe a fair and thorough process, in the best spirit of this Chamber and in the best interest of this Nation, is what we should look forward to. I want to see we get the complete record and get back on the right track. I believe we can do that and it is important we work at it.

I promise, as I said, to do what I can, and I believe we will have a very fair and objective hearing. But it is also important that we are fair to the American people. They are depending on us to carefully scrutinize anyone who comes up for confirmation. We cannot do that without a complete questionnaire.

There are a number of things I raised the other day, yesterday, about the shortfall. I will briefly make a point or two. The letter sets forth in some detail quite a number of areas we set forth. It is eight different items and some other comments that we believe are inaccurate and we call for additional information. There are some significant matters there.

When the judge supplemented her initial questionnaire on June 6 by providing us with a report concerning the death penalty article she drafted during her time on the board of the Puerto Rican Legal Defense Education Fund, she had initially omitted that from the report. We would appreciate confirmation that a thorough review of those records has been completed, given the initial omission, and that she has provided all the relevant documents to the committee in response to this question.

There are other questions of writings, reports, and speeches. Question 12(a) requires the nominee to provide copies of materials written or edited. Judge Sotomayor has been widely described as one of the editors of the Yale Law Journal and, as managing editor, Yale Studies in World Public Order. However, we have not received any copies of either publication that she has edited. We need to see copies of those materials.

The questionnaire also requires copies of reports, memorandums, and policy statements prepared by specified organizations. The judge responded:

[a]s a member of various court committees [she has] prepared and contributed to numerous reports and memoranda on court issues, which relate to internal court deliberations and are not available for public dissemination.

I don't think those are the kind of documents that are secret. I think they can be obtained, and I believe the questionnaire calls for all of those.

Paragraph 12(d) talks about a list of speeches and lectures providing the text of those speeches or, if that is not available, outlines or notes and, if not that, a summary of the subject matter involved in the speeches. About a third of those speeches have not been prepared and the summaries are inadequate. I will give an example. This was a response to one of them:

I spoke on Second Circuit employment discrimination cases.

There is no summary of what it was about, no outline or other information on that speech.

Another one:

I spoke at a federal court externship class on Access to Justice.

Another one:

I spoke on the United States Judicial System.

Another one:

I participated in a symposium on post-conviction relief. I spoke on the execution of judgments of conviction.

Another one:

I spoke on the implementation of the Hague Convention in the United States and abroad.

It goes on. There are several others. But those are inadequate responses, probably as a result of rushing the questionnaire through. I hope the nominee will go back and see, first of all, if she can find the written speech she gave and provide us a copy of it. That would be helpful as we review these matters because there have been some questions about speeches that the nominee has made.

I will not take any more time. I will let the letter speak for itself. I tried to

call the judge earlier this afternoon, but she will not be available until sometime later, to tell her this is coming forward. I believe her staff may have already been notified of it, the White House Counsel's office.

These are not little bitty matters. They are important matters. If we are going to move forward in a record-breaking timeframe, the least we can expect is complete and full answers to these questions. It is appropriate that we insist this questionnaire be properly and completely answered. I hope and believe it will be. Certainly that is what our request is.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERTS. I ask unanimous consent that I may proceed for about 12 or 13 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH CARE

Mr. ROBERTS. Mr. President, I rise today to talk about health care reform. What else in regard to the interests of the American people and what we are doing here?

As the Republican leader, Senator MCCONNELL, has pointed out in several floor speeches over the past week or so, the desire for health care reform on both sides of the aisle is one that unites this Chamber across both political and geographic boundaries.

Our system of health care produces some of the best care in the world and it is the driver of a substantial share of the medical innovations that have wiped out diseases, improved our comfort, and extended our time on this Earth.

However, this system is not truly accessible to everybody, and that is the problem. That is what this entire debate boils down to: your ability to have access to a doctor, to go see the doctor of your choice when you need to see that doctor.

Solving this problem of access is exceedingly complicated, partly because it evidences itself in so many diverse ways all across the country, so many geographical areas. For example, in our rural areas in Kansas, we are struggling with attracting and retaining doctors and keeping the doors open to our hospitals, to our pharmacies, and clinics. We talk about recruiting athletes. My goodness, the business of recruiting doctors and health care professionals is equally as competitive.

In our urban areas such as Kansas City and Wichita, our providers face very different challenges which are just as daunting and which threaten a patient's ability to access health care.

On top of that, although some 250 million Americans have health insurance, somewhere in the neighborhood of 27 to 47 million, depending on who you are counting and who is talking, do not. That makes accessing health care expensive and very challenging for them.

In addition, the government-run Medicare Program, which is on the verge of bankruptcy, by the way, does not pay doctors and pharmacists and ambulance drivers and nurse clinicians—pardon me, clinical lab folks and home health care providers and almost every health care provider that you can name—they do not pay them enough to cover their cost. Unless these providers have a non-Medicare population to recoup their losses, they cannot stay in business and their patients lose out—a de facto rationing of health care.

As a member of both the Finance and HELP Committees, and the cochair of the Senate Rural Health Care Caucus, I am able to participate and have been participating, along with staff, in this complex and very difficult effort. We must reform our health care system into one that guarantees meaningful access for all Americans, and guarantees that patient-doctor relationship. However, this effort to date has been a tale of rhetoric versus that of reality, the promise of cooperation contrasted with the unfortunate but real fact of partisanship, something I do not like to say.

Let me explain. President Obama, who ran as a ''postpartisan'' candidate, has made many overtures to Republicans indicating a desire for this process to be bipartisan. He just met with some members of our leadership and obviously the leadership on the other side of the aisle as of today.

Others in the Senate have declared their goal to be a bill that attracts upward of 70 votes. Is that possible? I would hope so. It could be. That would be a tremendous victory for the Senate of the United States and the American people.

But the reality is something very different. Today in the HELP Committee, the Health, Education, Labor and Pensions Committee, we have just begun the process of walking through a 615-page bill that we are scheduled to mark up next Tuesday.

This bill does not have one single Republican contribution, as far as I can tell. Moreover, it is incomplete, with many details missing. For example, the small detail of how much it will cost. There is no cost estimate to this bill of 615 pages, just going through it as of today, going to try to mark it up next Tuesday.

Come on. That is not the way we should be doing business. The Finance Committee has conducted a parallel and I think, quite frankly, a better process so far, and I wish to thank Chairman BAUCUS and Ranking Member GRASSLEY and their staffs for their efforts. But we still have not seen a detailed proposal or cost estimate, and we are being pushed to mark something up in the next few weeks as well.

I want everyone to understand why process is important. Health care reform is important, to be sure. Getting things done obviously is important. But so is process. It is not because I do not want health care reform, nor is any Member in this body in a position to say they do not want health care reform. I want every single Kansan, every single American, to be able to see the doctor of their choice when they want to, especially when they have to.

I speak today because this health care reform bill will likely involve one of the biggest, most important votes that I or any one of my colleagues will cast during the time we are privileged to serve in the Senate of the United States. This health care reform bill will affect the lives of every single American. It will reform a system that drives one-sixth of our economy, over 16 million American jobs. It will have consequences for medical science and innovation that improve the lives of not only those of us in this great country but all across the world. When people are really sick, they come to the United States.

This bill will spend upwards of $2 trillion—$2 trillion—our children and grandchildren will have to some day repay. If we are going to do this, we cannot afford to get it wrong. For this reason, I initiated a letter about a week ago on behalf of all of my Republican colleagues on the Senate Finance Committee and on the HELP Committee. I asked the chairmen of those respective committees, the distinguished chairman, Senator DODD, who is now serving in Senator KENNEDY's absence, to give this process the time and the careful consideration it deserves. That was the message of the letter: Give us the time and the very careful consideration this vital issue deserves.

It seems to me our requests have been extremely reasonable. First, please provide us with your detailed plan with enough time for us to read it, to understand it, and get feedback from our constituents back home, the people the bill will affect.

We have done this in the Finance Committee. Goodness knows, I do not know how many panels we have had, how many walk-throughs, how many slide presentations. Boy, that is tough in the afternoon to turn the lights off as Senators and try to pay attention to fact after fact after fact and suggestion after suggestion after suggestion and policy objective after policy objective on each day as we go through the legislative swamp, to try to get this from here.

Our requests, again, I think—I want to say it again. First, you should provide us with your detailed plan with enough time for us to read it, understand it, get feedback from our constituents back home, the people the bill will affect. The reason I said that twice is that every day we had one of these slide shows, every day we had a

PowerPoint, every day we got more information, our office would send it back to the providers of health care in Kansas, much in the same fashion as members of the committee would send to it their people, and say: Hey, is this going to work? These are the people who actually do provide the health care.

I know the arguments that say: Well, now, wait a minute. We need to cut out fraud, waste, and abuse, and we need to be much more cost conscious. We need better practices in regard to better medical practices. We need a lot of things to either suggest or to incentivize or to maintain what the health care providers do.

But in the end result, if that person is sick, they are going to have to see a doctor, and they are going to have to see a nurse or some health care provider. So in the end result, we better at least be doing something that the providers say, yes, this makes common sense or you are going to see either one of two things: You are going to see a political revolt when they say, no, we are not going to go down that road or else you are going to see a continuation of rationing where providers say: No, I am not going to take part anymore in the Medicare Program, because I am not getting reimbursed up to cost.

You can have the best government program in the world, you can have the best government card in the world. But if you cannot find a doctor who provides service or a home health care provider who will provide service, or any provider who will provide that service well, where are you?

Second, I would like to see provided the cost estimates from the Congressional Budget Office and the Joint Tax Committee. Let us know how much all of this is going to cost. That is extremely important. We are hearing anything from $1 to $2 trillion.

Then, lastly, how will it be paid for? I know we are into an era now where basically we have the printing presses rolling, and we have an Economic Recovery Act and we have many facets of that, we have the stimulus, the omnibus, we had the President's budget and we had TARP, and we had four different other acronyms under TARP, and we did not worry too much about the pay-fors and who was going to pay for it. We let the printing presses roll, because nobody wanted to see economic Armageddon.

Could we have done it better? I think so. But that is yesterday's decision. So we should identify how this will be paid for or are we not going to pay for it. Are we simply going to go ahead—there has been some discussion about some aspects of it that you would not pay for. There are other aspects that we need to go into, because they involve probable tax increases, and now is not the time to be increasing taxes, especially on the small business community, despite the need for health care reform.

I think asking for these details is absolutely fair. I think it is necessary under the circumstances. In fact, I would be ignoring my responsibilities to my constituents in Kansas if I did not demand these conditions be met.

Every single Republican member of the Finance Committee and HELP Committee signed the letter. Every single one expressed a desire to work with our colleagues to achieve bipartisan health care reform.

That brings me back to today's HELP Committee walk-through of 615 pages of an incomplete draft, the rushed HELP and Finance markup schedule, Tuesday, and then in about a week or two, the arbitrary floor debate deadlines that we hear from leadership. I hope our letter will slow this hurried dash to an imaginary finish line. Slow it down. Slow it down. I know it is extremely important that we pass good health care reform legislation. It is also extremely important to prevent bad legislation from passing and get America saddled with it for about 20 or 25 years. I wish at the end of every committee room, if in fact the bill gets to committee, the committee of jurisdiction, that we can hold appropriate hearings, we would have a sign that says, ''Do no harm.'' And then right below it perhaps we could put ''whoa,'' until everybody can slow down and read it in regard to process, and cost, and specifics of the bill, and trying to work together to get a good product.

There is no reason why the Senate should rush through a bill that has this much at stake. So time out. Time out. Time. Slow down. Give us the details. That is all we are asking for. The people of this great Nation deserve nothing less. Let's get health care reform and let's get it right.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll

The assistant bill clerk proceeded to call the roll.

Mr. THUNE. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THUNE. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PAY-GO

Mr. THUNE. Mr. President, there is a disturbing pattern emerging in Washington, DC, which I don't think is being lost on the American people. We have seen, since the beginning of this year, with the new administration coming into power, the new Congress taking control of the leadership in both the House and Senate, an enormous amount, an unprecedented amount of spending, borrowing, and taxing. To bear that out—this information has been used before—if you actually look at the numbers, you have to go back a long ways in American history, go back to the foundation of our country, go back to 1789, and you take it up to today, 2009, 220 years of American history, the total amount of debt that has been accumulated over that period of time, literally since the Presidency of George Washington through the Presidency of George Bush will be equaled in the next 5 years.

We will double the amount of Federal debt, public debt in this country in the next 5 years. We will triple it in 10 years. We are borrowing and spending money around here on a spree that literally is without precedent in American history.

It should be of concern to all Americans for the obvious reason. They have a share of that debt. In fact, according to USA Today, if you just take the amount of debt that has been accumulated since the beginning of this year, with the passage of the stimulus bill, with the new appropriations bill that passed, an 8.3-percent increase over the previous year, which was twice the rate of inflation, and all the other spending that is going on with the various bailout programs and whatnot, the average family's share of the debt this year alone is $55,000. The average family's share of the Federal debt is $55,000 per family in debt accumulated just since the beginning of this calendar year.

The amount of borrowing is without precedent. The amount of spending that is being done is without precedent. All under the guise of this is an emergency, and we have to react this way. But I think as more of this spending and more of this debt accumulates, the American people have become more convinced that the spending isn't solving the problem it was supposed to solve, which was we were going to create jobs, get the economy growing and expanding again. We haven't seen any of those effects.

What we have seen, of course, is more debt, more interest, and a bill that we will hand to future generations that is not fair to them because we should not be penalizing future generations and pushing them because we haven't been able to live within our means.

The most recent response to that by the administration was yesterday. They came out and announced they are going to implement pay-go. So we are going to have pay-go regulations or pay-go policies now in place with respect to the Federal budget and the way we operate in Congress. Incidentally, even when pay-go was in effect, it was not very effective because much of the budget, much of the spending that occurs in Washington is outside the realm or outside the net of pay-go.

In fact, if you look at what pay-go does in terms of its design, it exempts all discretionary spending, would allow all current entitlement programs, such as Social Security, Medicare, and Medicaid, to continue to grow on autopilot. It affects only new entitlements or tax cuts that may be created in the future. Pay-go also allows expiring entitlement programs to be extended without offsets but not expiring tax cuts.

So it is clearly biased in favor of higher spending and higher taxes. In fact, if it does not apply to discretionary spending and if, in fact, it does not in a meaningful way apply to entitlement reform—in other words, it simply puts sort of a cap on how much entitlements can grow, but it doesn't get at the fundamental issue that these programs continue to grow unabated—it is simply one thing: a statutory excuse to raise taxes. That is essentially what pay-go is.

The new administration came out with the news bulletin yesterday that this is somehow a bold, new step and that they are going to attack and take on this deficit and this debt we have. Of course, what they didn't tell us is—sort of the expression we use in my part of the country—it is like closing the barn door after the horse is already out of the barn because we have already got all this spending this year that wasn't covered by pay-go. The stimulus bill, which was $800 billion in new borrowing, was outside of pay-go. In fact, over the past several years now that the Democrats have been in power in the Congress, they have consistently violated the pay-go standard, about 15 times, to the tune of about $882 billion in all this new spending that was done outside of pay-go.

So now it is like all of a sudden coming to the conclusion and realization that now we are going to get serious about deficits, now we are going to get serious about spending, now we are going to somehow clamp down on all these new programs that are out there. Somehow, at least rhetorically, subscribing to pay-go as a concept is going to be the solution and the answer to that.

I think we all know better than that. As I mentioned, pay-go has been routinely sort of ignored in the past. Even if it were to apply, as I mentioned earlier, it does not capture much of the spending that goes on here in Washington. It is simply nothing more than a statutory excuse to raise taxes.

Having said that, I mentioned before much of the spending that has already occurred here in Washington. Yet the big-ticket items are still looming out there on the horizon in the future. By that I mean health care reform, which is a big priority of the administration. We are starting to see more details, get a little bit of a glimpse of what that might entail.

We know, for one thing, based upon the statements that have been made by the President and by the Democratic leaders in the Congress, they want it to include a government plan, purely and simply. They want a government plan, which means one thing; that is, that the government takes over health care in this country. Because you cannot maintain a private insurance program, you cannot maintain a private-sector delivery system, a market-based health care system in this country if you are going to have a government plan.

The government plan is where everybody, according to studies that have been done, eventually would end up going. They would gravitate there. More and more small businesses either would be forced to pay fines, if they did not have insurance themselves or offer insurance. The suggestion is—and I think it is a fair one based upon the analysis that has been done by a lot of the independent outside groups—you will see more and more small businesses giving up their health care coverage and having their employees move and transition into the government plan. The government plan will become the repository for all the employees who are currently covered in employer-provided health care plans in this country.

So the government component of this will continue to grow, and eventually you will have a system that very much models or is very similar to what we see in other places around the world. Some people talk about Canada, some people talk about Europe and all these great systems. But the reality is, a lot of the people in those countries come to the United States. The reason they come here is because we have the highest quality care and because they can get access to it.

The one thing that happens when the government runs health care is the government decides what procedures are covered. The government decides what treatments are going to be part of the coverage. The government will decide how soon you can get access to those treatments. What you find in other countries around the world are long lines, long waits, and that is fairly typical of the countries I mentioned.

The thing that makes the American system so unique in all the world is its dependence upon and its foundation upon a market-based system. It has led to incredible innovation. It has led to incredible research and development, new treatments, new therapies, and has provided all kinds of opportunities for people of this country to receive health care, and, frankly, as I mentioned before, for people from other countries who come here to get their health care.

So why we would want to throw out that part of our health care system that is so good and replace it with a government-run system—which, frankly, again, the government is going to get in the middle of the decision between the consumer of health care or the patient and their provider, the physician, and make those decisions. It seems to me that is not a model we want to emulate in the United States.

As I said, we have a system that needs reform. We have flaws in the way our current system works. But the fact is, it is the very best health care system in the world, and I think it would be a big mistake for us to go down a path that shifts and moves more and more people into a government-run, government-controlled system, where the government decides what procedures are going to be covered and how soon you are going to have access to them.

I think it does one thing: It obviously would lead to a rationing of health care. By that I mean, simply again, that the government would have to try the clamp down on costs, limit the access of people to have certain types of therapies, certain types of treatments, and I think you would find less and less choice available in health care in this country. That is what I think a government-run system would give you in the end.

Most of us on this side have laid out a number of proposals, alternatives to a government-run system. Everybody says: Well, come up with a plan of your own. We have a number of them out there. We have a Coburn-Burr plan that has been introduced. Senator GREGG from New Hampshire has a plan that has been introduced. There is a Bennett-Wyden bill, which is a bipartisan bill, that has been introduced out there. But there are a number of alternatives that have been put forward by Republicans.

To date, we have only seen little sort of generalities about the Democrat plan. All we simply know is they are going to insist upon a government-run component to that. Again, it simply is nothing more and nothing less than a government takeover of health care, which is going to lead to all kinds of outcomes that I do not think most people in this country are prepared for and, frankly, if they had the opportunity, would not support.

But they have entrusted us with the responsibility to look for ways to make health care more affordable in this country. There are lots of good suggestions which, as I said before, Republicans are putting forward. But it is going to be very difficult if the bright red line that is put forward by the Democrats in the Senate and in the House of Representatives is a government-run program, a government-run plan or else. I certainly am not going to subscribe to that sort of a solution for America's health care system. Nor do I think it is going to be in the best interests of patients and consumers around this country or providers, for that matter, to do that.

So health care debate is one debate that is out there. The reason I raised that issue is because it ties back into my point earlier that the amount of spending and borrowing and taxing that is going on here is—if you look back at what has already been done, it is enormous, it is enormous by any comparative standard in American history. But the big-ticket items are still out there because the health care plan, as we understand it—again, it has only been conceptual. We have not seen the details emerge from any of the Democrats' ideas. They are starting to roll more of it out. But one thing is clear: It is going to have a huge price tag. We are talking about anywhere from $1 trillion to $1.5 trillion to $2 trillion. Of course, if they are going to adhere to the newly announced pay-go standard, that means this new entitlement program has to be paid for.

So where does that $1.5 trillion or $2 trillion come from? Well, obviously, it is going to come from some revenues raised from some part of our economy. That means a lot of hard-working Americans are going to see their taxes go up to finance this new government takeover of health care, which is going to give them fewer options, and get in the way of the patient-doctor relationship and cost them a lot more in the form of higher taxes.

I think even though much of the spending I have already referred to is in our rearview mirror—all that is left is to pay the bill for that. We still have to pay the bill. We are borrowing, which means somebody is going to pay the bill. We are going to hand off the bill to the next generation of Americans because, obviously, when you borrow $1 trillion, someday it has to be paid back. In the meantime, when you continue to rack up that kind of borrowing and when you continue to do all the other things we are doing in our economy in terms of interventions, whether it is with regard to financial institutions or auto manufacturers—you can kind of go down the list—insurance companies now that the government actually has an ownership interest in that—we are acquiring enormous amounts of exposure and debt for the taxpayers of this country.

The health care plan is going to be another $1.5 trillion or $2 trillion on top of that. When you borrow that amount of money, you do have to pay it back. By the way, I should mention, too, the interest on the amount of debt we are going to rack up in the next 10 years alone is about $5 trillion. Think about that. That is just to pay the finance charge on the debt we have in this country. Think about the enormous burden that places on the American taxpayers and the American economy.

What generally happens in a case such as that is, when you borrow that much money, there is a lot more pressure out there, and the people who are buying that debt are, at some point, going to start demanding a higher interest rate. When interest rates go up, with the higher return on their investment, generally inflation follows with it. So you have all kinds of economic problems that are created by the level of borrowing we have already incurred. And we are going to add a new health care entitlement on top of that. It literally is breathtaking the amount of intervention we are seeing in the private marketplace today.

I talked about some of the spending and some of the borrowing that has been done. But in the taxes that are going to be associated with health care—and I could go down a list. There is a three-page list of the various, what we call pay-fors or ways of raising revenue to help finance health care. But there is also another big tax looming on the horizon, and that is the carbon tax, what we call the national sales tax on energy. If this climate change bill, which is currently moving through the House of Representatives, reaches the Senate, and if it does, in fact, pass the Congress this year, that, too, will entail an incredible amount of taxation, because there is no way in this country you can attach, essentially, a cost to carbon per ton and force companies that emit to buy the credits that would be associated with that without them passing it on. They are going to pass it on. Everybody admits that. The President has admitted that. The leadership on the other side has admitted that. All the utility companies in the country will tell you that.

A carbon tax, a national sales tax on energy, would hit places such as where I am from in the Midwest the hardest because we are, by and large, proportionately more dependent upon coal-fired power than are many other areas in the country. We have a sparse population, which means we have a ''higher carbon footprint,'' which means people in the Midwest, in States such as mine, are going to pay way more for energy under any kind of a climate change bill or what we call a cap-and-trade bill or cap-and-tax bill.

However you want to refer to it, there is no way of getting around the fact that it is going to cost an enormous amount every single year for families in this country, for businesses in this country, for industrial users, for school districts. I have seen the statistics from school districts in my State, from commercial users, from residential users about what those costs are going to be. They are stunning.

So that is another tax that is still out there. Add that to the health care tax that will come with whatever health care bill is passed through here, and the amount of taxation is going to start to rival the amount of spending and borrowing that is going on in Washington.

But it brings me to my final point, and that is what I am concerned about and what I am starting to hear more and more from people in my State of South Dakota—in many cases unsolicited—who come up to me and raise this issue of the amount of government ownership of our private economy. We are seeing, again, unprecedented levels. If there is one bedrock principle in American history, it is the adherence to the ideals of private enterprise.

In recent months, however, the United States has substantially deviated from this historical pattern, and the Federal Government now owns substantial shares of major U.S. corporations. We own—the taxpayers; I mean you and I and all of us here—we are now shareholders in a lot of major U.S. corporations. The taxpayers—the Federal Government—own 79 percent of AIG, 75 percent of General Motors, 10 percent of Chrysler, 36 percent of Citibank, 80 percent of Freddie Mac and Fannie Mae. And it goes on and on and on.

So we have all this spending, borrowing and taxing and now, on top of that, increasing the amount of government ownership of America's private economy. If there is one thing Americans are clear on, it is that the government should not be taking over bigger and bigger shares of the American economy.

There was a survey recently by Rasmussen that said 75 percent of Americans agree the Federal Government should not take over the U.S. banking system. That was a poll done in February. More recently, 60 percent say that the bailout loans given to GM and Chrysler were a bad idea. That was an April 21 poll. A new poll, done on May 31, just recently, shows that 67 percent of Americans are opposed to providing General Motors with $50 billion and giving the government a 70-percent ownership interest in GM. Mr. President, 56 percent of voters said it would be better to let GM go out of business. None of us want to see that. But I think none of us, at least most Americans do not want to see the government owning more and more of American companies. The Federal Government is inevitably going to use that ownership stake to push its own agenda.

In a moment of extreme candor, former Labor Secretary Robert Reich declared that if the government is an active shareholder, they should ''push management to take actions that are not necessarily geared toward higher shareholder return.''

Think about that statement. The government owns more and more of American businesses. They should ''push management to take actions that are not necessarily geared toward higher shareholder return.'' In other words, the government should use its newly acquired power in formerly private companies to further its own agenda.

Both the political process and the free markets are going to be distorted if that happens. In fact, in the New Republic, Noam Scheiber recently wrote that ''government ownership invariably politicizes management decisions which could be a fiasco.'' The article notes that a coalition of unions is lobbying against providing bailout dollars to Principal Financial Group because of its opposition to ''card check.'' You find more and more of these pressures on now because the government has a bigger and bigger stake in the government dictating day-to-day management decisions in American business. That is not a path I would argue we want to go down.

The Economist commented on the government-forced Chrysler bankruptcy:

> In its haste it has vilified creditors and ridden roughshod over their legitimate claims over the carmaker's assets. At a time when many businesses must raise new borrowing to survive, that is a big mistake. . . . The Treasury has also put a gun to the heads of GM's lenders.

In a recent Bloomberg article, Bradley Keoun warns of some of the problems that Citigroup—and other banks

incur in accepting bailout money—may encounter as a result of the partial government ownership. Among them he cites government pressure for stricter compensation rules, directives to focus on ''State-approved social objectives,'' instead of increasing earnings, scrutiny of advising or being forced to ''exit risk-taking businesses that are profitable competitors.''

I think there is plenty of thought out there from people who understand the economy and the importance of the private market, its tradition, its contribution to the success of the American economy, and the prosperity we enjoy today, as well as lots of anecdotal and other evidence that when the government gets into these particular situations where it is trying to influence the day-to-day decisions of private business in this country, those who are trying to manage our private businesses in this country, leads to all kinds of fiascos and disaster.

I would mention one other point and that is, according to Bloomberg, after demands from lawmakers, Citigroup consented to support cramdown legislation, even though this policy was opposed by others in the banking industry.

It is pretty clear these types of interventions into the private marketplace, into the free market economy in this country, lead us down a path that is not good for the American taxpayer, not good for the American economy, and that it stifles innovation and entrepreneurship. In fact, I would argue it kills the entrepreneurial spirit in this country to have government taking bigger and bigger ownership interests, bigger and bigger ownership stakes in the American economy, and further dictating the decisions, the day-to-day decisions which American businesses make that are designed to grow their companies, to get a better return for their shareholders, to become more profitable, to make America more prosperous, to raise our standard of living, and to deliver more benefits to their employees—all these things that have driven this economy and made it the envy of the world. I don't think we want to go down a path or stay down a path that gets us deeper and deeper into ownership of the private economy.

I am going to be introducing and filing a piece of legislation tomorrow which addresses this issue and which provides an exit strategy for the Federal Government and for the taxpayers to begin to get out of all these ownership interests they have in the American economy, and I will have the opportunity on the floor to talk more about that at a later time. But this afternoon, I wished to touch on these issues as we begin the debate which has sort of captured this city and the Congress and the administration and I think very soon will engage the American public over health care reform and the trillions of dollars of new taxes and revenues that are going to be necessary to finance the proposal the new administration has for health care reform and how that takes us even further down the path of government intervention and a level of nationalization of our private economy—in this case health care—and that pattern that just seems to be continuing and which I think more and more Americans are reacting to and more and more Americans, I believe, are going to become engaged in.

Members of Congress on both sides are going to be hearing from their constituents about what they perceive to be a real threat to the long-term viability, the long-term prosperity, and the long-term protection of the taxpayers' interests.

I hope they will become more engaged. I certainly hope we will be able to defeat proposals that come before the Senate that call for greater governmental ownership, greater governmental intervention, greater expansion of governmental powers in Washington that will limit the choices of Americans, limit their access to health care opportunities, health care therapies, health care treatments that all too often are lost, I believe, in a system where the government rations care.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded,

The PRESIDING OFFICER. Without objection, it is so ordered.

MCCHRYSTAL NOMINATION

Mr. REID. Mr. President, in my office a few minutes ago, I received a call from Admiral Mullen, the Chairman of the Joint Chiefs of Staff. I wrote down what he asked and what he said. He said: Senator, there is a sense of urgency that General McChrystal be able to go to Afghanistan tonight.

There is no commander in Afghanistan.

Admiral Mullen said—and I wrote it down: Admiral McChrystal is literally waiting by an airplane. It is 2 o'clock in the morning Thursday in Afghanistan. Dawn will soon be breaking and our troops will not have a commander there.

Is this what the minority wants? Why can't they come and approve this man to go defend us in Afghanistan? I am without words to try to explain my consternation at the fact that General McChrystal, one of our most eminent, prominent, outstanding, qualified soldiers, a man whose father won five Silver Stars, a man whose record is one of being the leading person in our military to do counterinsurgency—that is what he is an expert in doing.

Let's get the man approved tonight so he can leave in an airplane and get over there and take care of his men and women.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

GUANTANAMO

Mr. MCCONNELL. Mr. President, it wasn't that long ago that the Senate voted almost unanimously to oppose bringing any terrorists at Guantanamo to the United States. But earlier this week, the administration ignored the will of the American people as expressed through that Senate vote by transferring a Guantanamo detainee named Ahmed Ghailani to New York. The purpose of the transfer is to try Ghailani in a U.S. civilian court for his role in the African embassy bombings of 1998. The administration's decision raises a number of serious questions.

First, Ghailani has already admitted that he attended a terrorist training camp in Afghanistan and assisted those who planned and carried out the embassy attack, but says he did so unintentionally. In a U.S. civilian court, if you're found not guilty, you're allowed to go free. So if we are going to treat this terrorist detainee as a common civilian criminal, what will happen to Ghailani if he's found not guilty? And what will happen to other detainees the administration wants to try in civilian courts if they are found not guilty? Will they be released? If so, where? In New York? In American communities? Or will they be released overseas, where they could return to terror and target American soldiers or innocent civilians?

Second, if Ghailani isn't allowed to go free, will he be detained by the government? If so, where will he be detained? Would the administration detain him on U.S. soil, despite the objections of Congress and the American people?

Third, why does the administration think a civilian court is the appropriate place to try Ghailani? Congress enacted the military commissions process on a bipartisan basis as a way to bring terrorists to justice without disclosing information that could harm national security. Some have complained that the previous administration moved too slowly on military commissions, but a lot of that delay was due to the constant legal challenges that were leveled against the process, including by some in the current administration. In fact, Ghailani's case was already being handled by the military commissions process—to the point that a judge had established a trial schedule for him. I ask unanimous consent that the trial schedule be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES OF AMERICA v AHMED KHALFAN GHAILANI (A/K/A ''FUPI'', ''HAYTHAM'', ''ABUBAKAR KHAFLAN AHMED'', ''SHARIF OMAR'')

SCHEDULE FOR TRIAL, AMENDMENT ONE

4 MARCH, 2009

1. The following trial schedule is ordered. Times when listed are local Eastern United States.

a. 1 June 2009: Discovery completed.

b. 15 June 2009: Discovery Motions due to the military judge and opposing counsel. If counsel intend to submit more than ten (10) discovery motions, counsel shall inform the military judge and opposing counsel of the total number of law motions which counsel intend to present NLT 1200 hours, 8 June 2009. If appropriate, the military judge will advise counsel of a revised schedule to present the motions.

d. Week of 6 July 2009: Hearing in GTMO re: Discovery Motions.

e. 20 July 2009: Law Motions due to the military judge and opposing counsel. In general, law motions are those which require no evidentiary hearing to determine. If counsel intend to submit more than ten (10) law motions, counsel shall inform the military judge and opposing counsel of the total number of law motions which counsel intend to present NLT 1200 hours, 13 July 2009. The military judge will advise counsel of a revised schedule to present the motions.

Note 1: Motions will have as their underlying legal premise no more than one legal basis. If there is more than one legal basis, then there should be more than one motion. Law motions include motions relative to sentencing.

Note 2: Motions, response, and reply due dates are a No Later Than date. Counsel for both sides are advised that any motion, response, or reply which is ready for submission prior to the due date should be submitted when completed. The efficient and proper process of motion practice will NOT be enhanced by delivering multiple motions, responses, or replies to the Commission or opposing party at the last possible moment.

e. Week of 3 August 2009: Hearing in GTMO re: Law Motions and Witness Production issues or any unresolved matters.

f. 10 August 2009: Defense Requests for Government Assistance in Obtaining Witnesses for use on the merits. See R.M.C. 703.

Note: The Government response to any witness request will be due within five business days of the submission of the request. Any Defense motion for production of witnesses in conjunction with a motion will be due to the court and opposing counsel within five days of receipt of a denied witness request.

g. Week of 24 August 2009: Hearing re: unresolved Witness Production Motions and/or any unresolved matters.

h. 31 August 2009: Evidentiary Motions due. Evidentiary motions due to the military judge and opposing counsel. In general, evidentiary motions are those which deal with the admission or exclusion of specific or general items or classes of evidence. If counsel intend to submit more than ten (10) evidentiary motions, counsel shall inform the military judge and opposing counsel of the total number of evidentiary motions which counsel intend to present NLT 1200 hours, 24 August 2009.

Note 1: Generally, see Paragraph ''e'', Notes 1 and 2 above.

Note 2: Defense witness requests associated with any motions should be submitted to the trial counsel in accordance with R.M.C. 703 simultaneously with the filing of the motion (or Defense response in the case of a Government motion) in question. The Government response to any witness request will be due within five days of the submission of the request. Any Defense motion for production of witnesses in conjunction with a motion will be due to the court and opposing counsel within five days of receipt of a denied witness request.

i. Week of 14 September 2009: Hearing in GTMO regarding Evidentiary Motions.

j. 23 September 2009: Requested group voir dire questions for Military Commission Members due.

Note: The military judge intends to conduct all group voir dire questioning of the members per R.M.C. 912. The military judge's group voir dire will take counsel's requested questions into account as appropriate. The military judge will also conduct the initial follow-up individual voir dire based on responses to the group questions. Counsel will be permitted to conduct additional follow-up voir dire.

l. 24 September 2009: Proposed members instructions due.

m. 5 October 2009: Assembly and Voir Dire for Panel Members.

n. 9 October 2009: Beginning of trial on the merits lasting potentially as late as 13 November 2009.

2. Counsel should direct their attention to the Rules of Court, RC 3, Motions Practice, and specifically Form 3–1, 3–2, and 3–3, for the procedures I have established for this trial. All motions, responses and replies shall comport with the terms of RC 3.6 in terms of timeliness. Any request for extension of any response or reply deadline associated with this hearing will be submitted before the deadline for the reply or response.

3. Requests for deviations from the timelines for hearings or for submission of motions established by this order must be submitted not later than 20 days prior to the date established, except for law motions for which requests for deviations from the due date must be submitted within 7 days prior to the date established.

4. Monthly Status Conferences will be scheduled throughout the pendency of this action or as needed under the circumstances. Counsel should anticipate the fluidity of the process of this action and be vigilant to alterations. Counsel requiring hearings or conferences not specifically anticipated herein should make a written request as soon as practicable in order to maintain the efficient and fair administration of justice. Court hearings designated as ''during the week'' is for planning purposes and actual hearings dates are commensurate with logistical, courtroom accessibility and transportation availability.

BRUCE W. MACKENZIE,
CAPT, JAGC, USN Military Judge

Mr. MCCONNELL. This schedule would be well underway if the administration had not suspended all military commission proceedings several months ago. Now we will have to start the process for Ghailani over again in civilian court.

The administration made the right decision by reconsidering its position on military commissions and deciding to resume their use. So why did the administration decide to stop the military commission proceedings against Ghailani that were being conducted in the modern, safe, and secure courtroom at Guantanamo and move him to the U.S. to try him in civilian court? Is it because the Administration doesn't think that by deliberately targeting innocent American civilians Ghailani violated the law of war? Does it think he should be treated as just another domestic civilian defendant?

Fourth, how will the administration ensure that trying Ghailani in a U.S. court doesn't damage our national security? As we've seen in the past, trying terrorists in the U.S. has made it harder for our national security professionals to protect the American people.

During a previous trial of suspects in the African embassy bombings, evidence showed that the National Security Agency had intercepted cell phone conservations between terrorists. According to press reports, this revelation caused terrorists to stop using cell phones to discuss sensitive operational details.

And during the trial of Ramzi Yousef, the mastermind of the 1993 World Trade Center attack, testimony given in a public courtroom tipped off terrorists that the U.S. was monitoring their communications. As a result, these terrorists shut down that communications link and any further intelligence we might have obtained was lost.

On the question of Guantanamo, it became increasingly clear over time that the administration announced its plan to close the facility before it actually had a plan. If the administration has a plan for holding Ghailani if he is found not guilty, then it needs to share that plan with the Congress. These kinds of questions are not insignificant. They involve the safety of the American people. And that is precisely why Congress demanded a plan before the administration started to move terrorists from Guantanamo. The American people don't want these terrorists in their communities or back on the battlefield. But that is exactly where Ghailani could end up if he is found not guilty in a civilian court. Before it transfers any more detainees from Guantanamo, the administration needs to present a plan that ensures its actions won't jeopardize the safety of the American people.

Finally, earlier today, the Senate majority whip came to the floor and claimed there is evidence that al-Qaida may be recruiting terrorists within Guantanamo. I am glad to see that the majority whip appears to be acknowledging the FBI Director's concerns that Guantanamo terrorists could radicalize the prison population if they were transferred into the United States. The fact that these terrorists might be able to recruit new members and conduct terrorist activities from behind bars is an important one. I also find it preposterous that the majority whip would assert that because I and others—including, by the way, members of his own conference—want to keep dangerous terrorist detainees away from American communities, we will enable terrorists to escape justice. Keeping these terrorists locked up at Guantanamo, and trying them using the military commissions process, is the best way to deliver justice while protecting the American people.

Mr. President, I yield the floor.

Mr. DURBIN. Mr. President, will the Senator yield for a question?

Mr. MCCONNELL. I have yielded the floor. The Senator can feel free to make a statement.

Mr. DURBIN. I was hoping to ask the Senator from Kentucky a question.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I understand the majority leader was asking about clearing some military promotions earlier today. I wanted to indicate—and I see the assistant majority leader is here—we are clear with those and never had an issue with these particular promotions. Therefore, I suggest that we call them up and confirm them immediately.

Unless there is an objection from the other side, and having notified the other side, I ask unanimous consent that the Senate proceed to executive session to consider the following military promotions: Calendar Nos. 192, 193, and 194. I further ask unanimous consent that these nominations be confirmed en bloc, the motions to reconsider be laid upon the table, that the President be immediately notified of the Senate's action, and that the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Douglas M. Fraser

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Stanley A. McChrystal

IN THE NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be admiral

Adm. James G. Stavridis

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

The Senator from Illinois.

GUANTANAMO

Mr. DURBIN. Mr. President, I want to make my comments about the minority leader's statement on the floor while he is still here. If he is willing to stay, we can engage in a dialog on this issue. I think it is time we do come to the floor together, along with the Republican whip, and at least make it clear what our positions are on some of these issues related to Guantanamo because it has been a matter of concern and a lot of comment on the floor of the Senate over the last several weeks.

I was going to ask the Senator from Kentucky, the minority leader, whether I understood him correctly when he said he believed that this individual, Ahmed Ghailani, if found not guilty in a court in the United States, would be released in the United States to stay here in a legal status. I wish to ask the Senator, if that is what he said, what is the basis for that statement?

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I can only repeat what the President's spokesman himself said. I am responding to the question propounded to me by the Senator from Illinois. It is my understanding the President's spokesman yesterday refused to say what would happen to Ghailani if he were found not guilty. So there is some confusion about that.

Mr. DURBIN. There is no confusion. This is such a leap to argue that if this man, who is not a resident of the United States—if I am not mistaken, he is Tanzanian—that somehow if he is found not guilty in the courts of the United States, he is qualified to be released into our population. That is a statement—I don't know anyone could draw that conclusion. He would have no legal status to stay in the United States unless we gave him one.

By what basis does the Senator from Kentucky suggest that this man, who may have been involved in the killing of 12 Americans among 224 other people, is going to be released by President Obama into our communities and neighborhoods?

Mr. MCCONNELL. Is the Senator asking me a question?

Mr. DURBIN. I am.

Mr. MCCONNELL. Let me say I am only quoting the President's spokesman. He says he doesn't know what would happen if Ghailani is released.

Let me say to the Senator from Illinois, let's assume that he is sent back to the country from which he came. I ask, in what way is America safer if this terrorist subsequently, under this hypothetical release in the United States, goes back to his native country from which he potentially could launch another attack on the United States?

Mr. DURBIN. I say in response, my colleague from Kentucky is gifted at the political craft. He has decided not to answer my question but to ask a question of me.

I say first that his assertion that this man, Ahmed Ghailani, if found not guilty would be released in the communities and neighborhoods of America cannot be sustained in law or in fact. He made that statement on the floor. That is the kind of statement that has been made about these Guantanamo detainees.

I don't know what will happen to Mr. Ghailani if he is found not guilty. It is conceivable that he could be charged with other things. It is conceivable he could face a military tribunal. It is conceivable he may be subject to detention.

I will say this with certainty. President Obama will not allow dangerous terrorists to be released in the United States in our communities and neighborhoods. I hope everyone on both sides of the aisle would agree with that.

I also wish to ask, if the Senator from Kentucky is critical of President Obama for announcing that he was going to close Guantanamo before he had a plan, why didn't we hear the same complaint when President George W. Bush announced he was going to close Guantanamo before he had a plan? Is the difference partisan?

Mr. MCCONNELL. I say to my friend from Illinois, he has made this point before, and I answered it before. I will answer it again.

I was against it when President Bush was in favor of it. I have been consistently against closing Guantanamo all along the way, no matter who the President was. At least you could say this about President Bush: He didn't put a date on it before he had an idea what he was going to do with them. And that is the core issue here.

Mr. DURBIN. The core issue is for 7 long years, the Bush administration failed to convict the terrorists who planned the 9/11 terrorist attacks—for 7 years. And for 7 long years, only three individuals were convicted by military commissions at Guantanamo, and two of them have been released. So to argue that the Guantanamo model is one that ought to be protected and maintained, notwithstanding all of the danger it creates for our servicemen overseas to keep Guantanamo open, is to argue for a plan under the Bush administration that failed to convict terrorists, failed with military tribunals and through the courts of this land.

I have to say that as I listen to the argument of the Senator from Kentucky, it is an argument based on fear—fear—fear that if we try someone in a court in America, while they are incarcerated during trial, we need to be afraid. There was no fear in New York for more than 2 years while Ramzi Yousef was held in preparation for trial and during trial because he was held in a secure facility.

Today we are told by the Department of Justice that there are 355 convicted terrorists in American prisons. I ask the Senator from Kentucky, does he believe we should remove them from our prisons, those already convicted, currently serving, such as Ramzi Yousef?

Mr. MCCONNELL. I say to my friend from Illinois, maybe we found an area of agreement. He is critical of the Bush administration for not conducting military tribunals more rapidly. I agree with him. I think they should have been tried more rapidly. But that

is the place to try them, right down there in Guantanamo.

If my friend is suggesting it is a good idea to bring these terrorists into the United States and, if convicted, put them in U.S. facilities, the supermax facility has basically no room. There may be one bed. As far as I know, there is no room at supermax.

Not only do we have, if we bring them into the United States—I don't know why I am smiling. This is not a laughing matter. Say what you will about the previous administration, but we were not attacked again after 9/11.

Mr. KYL. Mr. President, will—

Mr. MCCONNELL. I don't have the floor, I say to my friend from Arizona. Maybe he can get the Senator from Illinois to yield for a question as well.

I don't think we want to complain about the fact we haven't been attacked again since 9/11, I say to my friend from Illinois. Containing terrorists at Guantanamo, going after terrorists in Iraq and Afghanistan, clearly something worked. And to argue we would somehow be made more safe in this country by closing down Guantanamo I find borders almost on the absurd.

Mr. DURBIN. With all due respect, the Senator failed to answer my question. I asked him this question: If it is a danger to America that if we put a convicted terrorist in our country, if that creates a danger, as he said repeatedly, in our communities and neighborhoods near this prison or in other places, then I asked the Senator from Kentucky, What would you do with the 355 convicted terrorists currently in prison, and the Senator didn't answer. He said: We haven't been attacked since 9/11. That is unresponsive.

We know there are facilities where these convicted terrorists can be held safely and securely. Marion Federal Penitentiary in my home State has 33 convicted terrorists. I just spent a week down there, not far from the Senator's home State. There was not fear among the people living in that area because 33 terrorists are being held at Marion. You know why? Because our corrections officers there are the best.

I went in to see them, and I sat down with them. They are concerned, angry, even insulted at the suggestion that they cannot safely hold dangerous people. One of the guards said to me: We held John Gotti. He was convicted of being involved in gangland activity. We are holding terrorists from Colombia in drug gangs. We are holding them safely. We are holding serial murderers safely. We know how to do this, Senator. And if your colleagues in the Senate don't believe it, have them come and visit Marion Federal Penitentiary.

They are doing their job and doing it well. To come to the floor of the Senate repeatedly and to suggest we are in danger as a nation because convicted terrorists are being held in our prisons I don't think adequately reflects the reality of what we have today.

Let me also say, I respect the Senator from Kentucky for saying he has always been in favor of keeping Guantanamo open. I respect him for being consistent in his viewpoint. I disagree with that viewpoint. Among those who also disagree with his viewpoint is GEN Colin Powell, the former Chairman of the Joint Chiefs of Staff and former Secretary of State under President Bush. He believes it should be closed. General Petraeus, someone I know the Senator from Kentucky has praised on the floor of the Senate, believes Guantanamo should be closed. They are not alone. Robert Gates, Secretary of Defense under President Bush and now under President Obama, believes it should be closed. Senator MCCAIN on your side of the aisle stated publicly that Guantanamo should be closed. Senator LINDSEY GRAHAM, on your side of the aisle, has stated publicly it should be closed. Former Secretaries of State have made the same statements.

He is entitled to his point of view. I respect him for holding that point of view even if he doesn't have the support from the security and military leaders I mentioned. But to come to the floor and repeatedly say to the American people that we are in danger because we are trying terrorists in the courts of America I think goes too far.

I think the President has done the right thing. I think this man Ahmed Ghailani should stand trial. If 12 innocent Americans died, and they did, among 224 people, this man should be on trial, and I think the President was right to bring him to the court for trial. To suggest that he shouldn't be, that he should be put in a military tribunal which has had a record, incidentally, over the last 7 years—military commissions at Guantanamo, in 7 years tried three individuals and two have been released—it doesn't tell me that it is a good batting record when it comes to dealing with war criminals.

I trust the courts of our land, the same courts that convicted Ramzi Yousef. I trust those courts to give Ghailani a fair trial under American law. I trust at the end of the day that a jury, if it is a jury, will reach its decision.

I can tell you this for certain. The suggestion by the minority leader that at some point after this trial Ghailani is going to be turned loose in the communities and neighborhoods of America, I don't understand where that is coming from. That is the kind of statement that I think goes to the extreme. I wish my colleague would reflect on that. We are not going to turn loose this man who is not a resident of the United States, not a citizen of the United States if he is found not guilty. The President would never allow it. Our judicial system would never allow it.

Do you think the Department of Homeland Security is going to clear this man to move to Louisville, KY, if he is found not guilty, or Springfield, IL? I don't think so. In fact, I think it is beyond the realm of possibility.

I also want to make it clear that we have before us an important decision to make. Are we going to deal with Guantanamo because it is a threat to the safety of our servicemen or are we going to keep it open so that some people who believe in it can have their political bragging rights?

I would rather side with those who believe closing Guantanamo brings safety to our men and women in uniform. Guantanamo is a recruiting tool for terrorists. That is not my conclusion alone. It is a conclusion that has been reached by many, as I look back and see those who have said it. For example, Chairman of the Joint Chiefs of Staff Mike Mullen:

> The concern I've had about Guantanamo . . . is it has been a recruiting symbol for those extremists and jihadists who would fight us. . . . That's the heart of the concern for Guantanamo's continued existence. . . .

Same statement from General Petraeus, same statement from Defense Secretary Gates, same statement from RADM Mark Buzby and others. We have a situation with Guantanamo where it is not making us safer. The President has made the right decision, hard decision to deal with the 240 detainees he inherited. I think we should do this in a calm, rational, and not fearful way.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, let me say Senator MCCAIN and Senator GRAHAM can speak for themselves, but neither of them has ever been in favor of closing Guantanamo without a plan to do something. They want to see what the plan is to deal with these terrorists. Beyond that, they can speak for themselves. But they are not in favor of closing Guantanamo without a plan.

With regard to the suggestion that we should bring these prisoners to the United States and try them, my good friend from Illinois has suggested there is no down side to that. Why not do it? We could. But the question is, Should we? We should not because we passed the military commissions for the purpose of trying these very detainees. There are courtrooms and a $200 million state-of-the-art facility at Guantanamo to both incarcerate them and to try them. We know no one has ever escaped there, and we know we haven't been attacked again since 9/11.

But let's assume we did bring them up here for trial. My good friend has suggested no harm done. During the Ramzi Yousef trial, he tipped off terrorists to a communications link. During the Zacarias Moussaoui trial, there was inadvertently leaked sensitive material. The east Africa Embassy bombing trials aided Osama bin Laden. The blind Sheikh Abdel-Rahman trial provided intel to Osama bin Laden. When you have these kinds of trials in a regular American criminal setting, there are down sides to it.

In terms of community disruption, I would cite the mayor of Alexandria, VA, right across the river. Ask him

how he felt about the impact of the Moussaoui trial on their community.

So I think the suggestion that somehow it is a good solution to bring these terrorists to the United States and to mainstream them into the U.S. criminal justice system is simply misplaced. If they are convicted, we don't have a good place for them. Everybody cited the supermax facility. Well, there is no room there. It is quite full. We have the perfect place for these detainees, for them to be detained and to be tried and ultimate decisions made.

I share the view of the Senator from Illinois that the previous administration did not engage in those military tribunals as rapidly as we all would like. They had a lot of disruptions from lawsuits and other things, and I expect they would argue that slowed them down. But I think they are in the right place—the right place to be incarcerated and the right place to have their cases disposed of.

Mr. President, my friend from Arizona is here and wants to address this, or another issue, and so I yield the floor.

The PRESIDING OFFICER (Mr. BENNET). The Senator from Illinois.

Mr. DURBIN. Mr. President, I will speak briefly, then yield to the Senator from Arizona. I will be happy, if he wants to ask a question or maintain a dialogue, but I will make this very brief.

I have confidence in the courts of America. If I had to pick one place on Earth to have a trial and to be assured it would be a fair trial with a fair outcome, it would be right here in the United States of America. Maybe I have gone too far. Maybe I am showing my patriotism, or whatever it is, but I believe that.

If you said to me: We captured a terrorist somewhere in the world, where would you like to have them tried? It would be right here because I believe in our system of justice. I believe in the integrity of our judiciary. I believe in our Department of Justice prosecutors. I believe in our defense system, our jury system. I believe we have the capacity and the resources to try someone fairly better than anyplace in the world.

The Senator from Kentucky may not agree with that conclusion. He obviously thinks there is too much danger to have a trial of a terrorist in the United States. How then does he explain 355 convicted terrorists now sitting in American prisons, tried in our courts, sent to our prisons, safely incarcerated for years? That is proof positive this system works.

The Senator from Kentucky, the Republican leader, is afraid. He is not only afraid of terrorism—and we all should be because we suffered grievously on 9/11—but he is afraid our Constitution is not strong enough to deal with that threat. He is afraid the guarantees and rights under our Constitution may go too far when it comes to keeping America safe. He is afraid of using our court system for fear it will make us less safe, that it would be dangerous. He is afraid the values we have stood for and the Geneva Conventions and other agreements over the years may not be applicable to this situation.

I disagree. I have faith in this country, in its Constitution, its laws, and the people who are sworn to uphold them at every level. I believe Mr. Ghailani will get a fairer trial in the United States than anyplace on Earth, and that if he is found guilty in being complicit in the killing of over 200 innocent people and innocent Americans, he will pay the price he should pay, and he will be incarcerated safely.

This notion that we have run out of supermax beds and that is the end of the story—and the State of Colorado is the home State of the Presiding Officer, where the Florence facility is located—I would say to the Senator from Kentucky that may be true for the supermax facility at the Federal level, but there are many other supermax facilities across America that can safely incarcerate convicted terrorists or serial murderers or whomever. We can take care of these people.

If there is one thing America knows how to do—and some may question whether we should brag about it—we know how to incarcerate people. We do it more than any other place on Earth, and we do it safely. The notion there is only one place—Guantanamo—where these detainees can be safely held defies logic and human experience.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, first of all, I was going to interrupt and ask a question, but I simply conferred with Senator MCCONNELL—and I will state and the RECORD can reflect the fact—that I believe Senator MCCONNELL asked the question of where he would be released if he were acquitted. I don't believe he asserted that he would be released in the United States. I just wanted to clear that up. Obviously, we can check the transcript and determine it. I think that was his intent because of the question that Robert Gibbs had posed. At least that is my understanding of it. We can resolve that.

But I would like to say a couple of other things. First of all, it is important to have this debate. The Senate had a debate some weeks ago, and it is true 90 Senators voted against funding a program to close the prison at Guantanamo Bay. Six Senators voted in favor of moving forward with that.

I appreciate the Senator from Illinois staunchly defending the lonely six, but they represented also a minority of American public opinion, which has said, by 2 to 1, according to the USA Gallop poll, that it is against closing the Guantanamo prison, and by 3 to 1 they do not want the prisoners released in the United States.

Both sides have engaged in a little bit of rhetoric. For example, I would respectfully request my colleague from Illinois go back over what he said a moment ago and perhaps come back tomorrow and think about rephrasing it. I don't think it is fair to characterize the position of the Senator from Kentucky as being fearful of trying people in the United States; fearful, for example, that terrorists—or afraid of giving terrorists rights and so on. I don't think that is the issue. I think what is the issue is the question of whether, as a general rule, it is better to keep prisoners in Guantanamo prison than to put them somewhere else.

I, for one, don't fear trying some of these people who are appropriately charged and tried in Federal court in the United States. But I would also say it is loaded with problems and headaches, and I think my colleague from Illinois would have to acknowledge that the trials that have occurred here have produced some real problems. These are hard cases to try in the United States. You start with the proposition that there are huge security concerns.

Now, it can be done. There will be huge security concerns with this alleged terrorist from Tanzania, and it will cost a lot of money in the place where he is tried. It will pose very difficult questions for the judge, for the people within the courtroom, the parties to the case, the lawyers in the case. There are evidentiary questions and other questions that are illustrated by the case of Zacarias Moussaoui, who was tried in Alexandria. I think we can all acknowledge the government would certainly say that was a huge problem for them because it was difficult to use evidence in the case that had been acquired through confidential or classified methods. The case was ping-ponged back and forth several times between the District Court and the court of appeals. It was a difficult, hard thing to do.

Then there are the situations where cases have been tried in American courts and classified information has inadvertently—and in some cases not inadvertently—been released, gotten into the hands of terrorists. Let me just cite a few of these, and not to make the case that it is impossible or a terrible idea but also to refute the notion that it is a piece of cake. It is not. It is really hard. If you could avoid doing this, I think the better practice would be to try to do so. But on an occasional basis, when we have a good Federal charge, we have the evidence that can back it up, and we think we can get a conviction, there is nothing wrong in those few selected cases with doing it. But we can't say all 240 of the terrorists at Guantanamo qualify for that. Very few of them do, as the President said in his remarks.

Let me note some of these cases. The famous trial of Ramzi Yousef. Here is a statement by Michael Mukasey, the former Attorney General. This is a quotation from the Wall Street Journal, again, during the trial of Ramzi

Yousef, the mastermind of the 1993 World Trade Center bombing:

Apparently, an innocuous bit of testimony . . . about delivery of a cell phone battery was enough to tip off terrorists still at large that one of their communication links had been compromised. That link, which in fact had been monitored by the government and had provided enormously invaluable intelligence, was immediately shut down, and further information lost.

I am not going to read the entire quotations but just some headlines. I mentioned the trial of Zacarias Moussaoui. That was a case also in which sensitive material was inadvertently leaked. Here is the headline from a CNBC story:

The Government Went To The Judge And Said, ''Oops, We Gave Moussaoui Some Documents He Shouldn't Have.'' . . . Documents That The Government Says Should Have Been Classified.

There is a whole story about how that happened. The East Africa Embassy bombing trials, which occurred after 2001, September 26 is the Star-Ledger story.

The cost of disclosing information unwisely became clear after the New York trials of bin Laden associates for the 1998 bombings of U.S. embassies in Africa. Some of the evidence indicated that the National Security Agency, the U.S. foreign eavesdropping organization, had intercepted cell phone conversations. Shortly thereafter, bin Laden's organization stopped using cell phones to discuss sensitive operational details, U.S. intelligence sources said.

There is another story about the same thing, with a headline in the New York Times. There is another quotation about the trial of the blind sheik, a story we are all familiar with, of Michael Mukasey, the former Attorney General, saying this in the Wall Street Journal:

In the course of prosecuting Omar Abdel Rahman . . . the government was compelled—as in all cases that charge conspiracy—to turn over a list of unindicted coconspirators to the defendants. Within ten days, a copy of that list reached bin Laden in Khartoum.

There are other cases. Mr. President, I ask unanimous consent to have these articles printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From FOX NEWS.com, Feb. 11, 2005]

N.Y. LAWYER CONVICTED OF AIDING TERRORISTS

(By Associated Press)

NEW YORK.—A veteran civil rights lawyer was convicted Thursday of crossing the line by smuggling messages of violence from one of her jailed clients—a radical Egyptian sheik—to his terrorist disciples on the outside.

The jury deliberated 13 days over the past month before convicting Lynne Stewart, 65, a firebrand, left-wing activist known for representing radicals and revolutionaries in her 30 years on the New York legal scene.

The trial, which began last June, focused attention on the line between zealous advocacy and criminal behavior by a lawyer. Some defense lawyers saw the case as a government warning to attorneys to tread carefully in terrorism cases.

Stewart slumped in her chair as the verdict was read, shaking her head and later wiping tears from her eyes.

Her supporters gasped upon hearing the conviction, and about two dozen of them followed her out of court, chanting, ''Hands off Lynne Stewart!''

She vowed to appeal and blamed the conviction on evidence that included videotape of Usama bin Laden urging support for her client. The defense protested the bin Laden evidence, and the judge warned jurors that the case did not involve the events of Sept. 11.

''When you put Usama bin Laden in a courtroom and ask the jury to ignore it, you're asking a lot,'' she said. ''I know I committed no crime. I know what I did was right.''

Lawyers have said Stewart most likely would face a sentence of about 20 years on charges that include conspiracy, providing material support to terrorists, defrauding the government and making false statements.

She will remain free on bail but must stay in New York until her July 15 sentencing.

The anonymous jury also convicted a U.S. postal worker, Ahmed Abdel Sattar, of plotting to ''kill and kidnap persons in a foreign country'' by publishing an edict urging the killing of Jews and their supporters.

A third defendant, Arabic interpreter Mohamed Yousry, was convicted of providing material support to terrorists. Sattar could face life in prison and Yousry up to 20 years.

Attorney General Alberto Gonzales called the verdict ''an important step'' in the war on terrorism.

''The convictions handed down by a federal jury in New York today send a clear, unmistakable message that this department will pursue both those who carry out acts of terrorism and those who assist them with their murderous goals,'' Gonzales said.

Stewart was the lawyer for Omar Abdel-Rahman, a blind sheik sentenced to life in prison in 1996 for conspiring to assassinate Egyptian President Hosni Mubarak and destroy several New York landmarks, including the U.N. building and the Lincoln and Holland Tunnels. Stewart's co-defendants also had close ties to Abdel-Rahman.

Prosecutors said Stewart and the others carried messages between the sheik and senior members of an Egyptian-based terrorist organization, helping spread Abdel-Rahman's venomous call to kill those who did not subscribe to his extremist interpretation of Islamic law.

Prosecutor Andrew Dember argued that Stewart and her co-defendants essentially ''broke Abdel-Rahman out of jail, made him available to the worst kind of criminal we find in this world—terrorists.''

At the time, the sheik was in solitary confinement in Minnesota under special prison rules to keep him from communicating with anyone except his wife and his lawyers.

Michael Ratner, president of the Center for Constitutional Rights, said the purpose of the prosecution of Stewart ''was to send a message to lawyers who represent alleged terrorists that it's dangerous to do so.''

But Peter Margulies, a law professor at Roger Williams University in Rhode Island who conducted a panel on lawyers and terrorism recently, called the verdict reasonable.

''I think lawyers need to be advocates, but they don't need to be accomplices,'' he said. ''I think the evidence suggested that Lynne Stewart had crossed the line.''

Stewart, who once represented Weather Underground radicals and mob turncoat Sammy ''The Bull'' Gravano, repeatedly declared her innocence, maintaining she was unfairly targeted by overzealous prosecutors.

But she also testified that she believed violence was sometimes necessary to achieve justice: ''To rid ourselves of the entrenched, voracious type of capitalism that is in this country that perpetuates sexism and racism, I don't think that can come nonviolently.''

A major part of the prosecution's case was Stewart's 2000 release of a statement withdrawing the sheik's support for a cease-fire in Egypt by his militant followers.

Prosecutors, though, could point to no violence that resulted from the statement.

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[From nytimes.com, Dec. 20, 2005]

BUSH ACCOUNT OF A LEAK'S IMPACT HAS SUPPORT

(By David E. Rosenbaum)

WASHINGTON.—As an example of the damage caused by unauthorized disclosures to reporters, President Bush said at his news conference on Monday that Osama bin Laden had been tipped by a leak that the United States was tracking his location through his telephone. After this information was published, Mr. Bush said, Mr. bin Laden stopped using the phone.

The president was apparently referring to an article in The Washington Times in August 1998.

Toward the end of a profile of Mr. bin Laden on the day after American cruise missiles struck targets in Afghanistan and Sudan, that newspaper, without identifying a source, reported that ''he keeps in touch with the world via computers and satellite phones.''

The article drew little attention at the time in the United States. But last year, the Sept. 11 commission declared in its final report: ''Al Qaeda's senior leadership had stopped using a particular means of communication almost immediately after a leak to The Washington Times. This made it much more difficult for the National Security Agency to intercept his conversations.'' There was a footnote to the newspaper article.

Lee H. Hamilton, the vice chairman of the commission, mentioned the consequences of the article in a speech last month. He said: ''Leaks, for instance, can be terribly damaging. In the late 90's, it leaked out in The Washington Times that the U.S. was using Osama bin Laden's satellite phone to track his whereabouts. Bin Laden stopped using that phone; we lost his trail.''

In their 2002 book, ''The Age of Sacred Terror'' (Random House), Steven Simon and Daniel Benjamin, who worked at the National Security Council under President Bill Clinton, also mentioned the incident. They wrote, ''When bin Laden stopped using the phone and let his aides do the calling, the United States lost its best chance to find him.''

More details about the use of satellite phones by Mr. bin Laden and his lieutenants were revealed by federal prosecutors in the 2001 trial in Federal District Court in Manhattan of four men charged with conspiring to bomb two American embassies in East Africa in 1998.

Asked at the outset of his news conference about unauthorized disclosures like the one last week that the National Security Agency had conducted surveillance of American citizens, Mr. Bush declared: ''Let me give you an example about my concerns about letting the enemy know what may or may not be happening. In the late 1990's, our government was following Osama bin Laden because he was using a certain type of telephone. And the fact that we were following Osama bin Laden because he was using a certain type of telephone made it into the press as the result of a leak. And guess what happened? Osama bin Laden changed his behavior. He began to change how he communicated.''

Toward the end of the news conference, Mr. Bush referred again to this incident to illustrate the damage caused by leaks.

[From the Wall Street Journal, Aug. 22, 2007]

JOSE PADILLA MAKES BAD LAW—TERROR TRIALS HURT THE NATION EVEN WHEN THEY LEAD TO CONVICTIONS

(By Michael B. Mukasey)

The apparently conventional ending to Jose Padilla's trial last week—conviction on charges of conspiring to commit violence abroad and providing material assistance to a terrorist organization—gives only the coldest of comfort to anyone concerned about how our legal system deals with the threat he and his co-conspirators represent. He will be sentenced—likely to a long if not a lifelong term of imprisonment. He will appeal. By the time his appeals run out he will have engaged the attention of three federal district courts, three courts of appeal and on at least one occasion the Supreme Court of the United States.

It may be claimed that Padilla's odyssey is a triumph for due process and the rule of law in wartime. Instead, when it is examined closely, this case shows why current institutions and statutes are not well suited to even the limited task of supplementing what became, after Sept. 11, 2001, principally a military effort to combat Islamic terrorism.

Padilla's current journey through the legal system began on May 8, 2002, when a federal district court in New York issued, and FBI agents in Chicago executed, a warrant to arrest him when he landed at O'Hare Airport after a trip that started in Pakistan. His prior history included a murder charge in Chicago before his 18th birthday, and a firearms possession offense in Florida shortly after his release on the murder charge.

Padilla then journeyed to Egypt, where, as a convert to Islam, he took the name Abdullah al Muhajir, and traveled to Saudi Arabia, Afghanistan and Pakistan. He eventually came to the attention of Abu Zubaydeh, a lieutenant of Osama bin Laden. The information underlying the warrant issued for Padilla indicated that he had returned to America to explore the possibility of locating radioactive material that could be dispersed with a conventional explosive—a device known as a dirty bomb.

However, Padilla was not detained on a criminal charge. Rather, he was arrested on a material witness warrant, issued under a statute (more than a century old) that authorizes the arrest of someone who has information likely to be of interest to a grand jury investigating crime, but whose presence to testify cannot be assured. A federal grand jury in New York was then investigating the activities of al Qaeda.

The statute was used frequently after 9/11, when the government tried to investigate numerous leads and people to determine whether follow-on attacks were planned—but found itself without a statute that authorized investigative detention on reasonable suspicion, of the sort available to authorities in Britain and France, among other countries. And so, the U.S. government subpoenaed and arrested on a material witness warrant those like Padilla who seemed likely to have information.

Next the government took one of several courses: it released the person whose detention appeared on a second look to have been a mistake; or obtained the information he was thought to have, and his cooperation, and released him; or placed him before a grand jury with a grant of immunity under a compulsion to testify truthfully and, if he testified falsely, charge him with perjury; or developed independent evidence of criminality sufficiently reliable and admissible to warrant charging him.

Each individual so arrested was brought immediately before a federal judge where he was assigned counsel, had a bail hearing, and was permitted to challenge the basis for his detention, just as a criminal defendant would be.

The material witness statute has its perils. Because the law does not authorize investigative detention, the government had only a limited time in which to let Padilla testify, prosecute him or let him go. As that limited time drew to a close, the government changed course. It withdrew the grand jury subpoena that had triggered his designation as a material witness, designated Padilla instead as an unlawful combatant, and transferred him to military custody.

The reason? Perhaps it was because the initial claim, that Padilla was involved in a dirty bomb plot, could not be proved with evidence admissible in an ordinary criminal trial. Perhaps it was because to try him in open court potentially would compromise sources and methods of intelligence gathering. Or perhaps it was because Padilla's apparent contact with higher-ups in al Qaeda made him more valuable as a potential intelligence source than as a defendant.

The government's quandary here was real. The evidence that brought Padilla to the government's attention may have been compelling, but inadmissible. Hearsay is the most obvious reason why that could be so; or the source may have been such that to disclose it in a criminal trial could harm the government's overall effort.

In fact, terrorism prosecutions in this country have unintentionally provided terrorists with a rich source of intelligence. For example, in the course of prosecuting Omar Abdel Rahman (the so-called ''blind sheik'') and others for their role in the 1993 World Trade Center bombing and other crimes, the government was compelled—as it is in all cases that charge conspiracy—to turn over a list of unindicted co-conspirators to the defendants.

That list included the name of Osama bin Laden. As was learned later, within 10 days a copy of that list reached bin Laden in Khartoum, letting him know that his connection to that case had been discovered.

Again, during the trial of Ramzi Yousef, the mastermind of the 1993 World Trade Center bombing, an apparently innocuous bit of testimony in a public courtroom about delivery of a cell phone battery was enough to tip off terrorists still at large that one of their communication links had been compromised. That link, which in fact had been monitored by the government and had provided enormously valuable intelligence, was immediately shut down, and further information lost.

The unlawful combatant designation affixed to Padilla certainly was not unprecedented. In June 1942, German saboteurs landed from submarines off the coasts of Florida and Long Island and were eventually apprehended. Because they were not acting as ordinary soldiers fighting in uniform and carrying arms openly, they were in violation of the laws of war and not entitled to Geneva Conventions protections.

Indeed, at the direction of President Roosevelt they were not only not held as prisoners of war but were tried before a military court in Washington, D.C., convicted, and—except for two who had cooperated—executed, notwithstanding the contention by one of them that he was an American citizen, as is Padilla, and thus entitled to constitutional protections. The Supreme Court dismissed that contention as irrelevant.

In any event, Padilla was transferred to a brig in South Carolina, and the Supreme Court eventually held that he had the right to file a habeas corpus petition. His case wound its way back up the appellate chain, and after the government secured a favorable ruling from the Fourth Circuit, it changed course again.

Now, Padilla was transferred back to the civilian justice system. Although he reportedly confessed to the dirty bomb plot while in military custody, that statement—made without benefit of legal counsel—could not be used. He was instead indicted on other charges in the Florida case that took three months to try and ended with last week's convictions.

The history of Padilla's case helps illustrate in miniature the inadequacy of the current approach to terrorism prosecutions.

First, consider the overall record. Despite the growing threat from al Qaeda and its affiliates—beginning with the 1993 World Trade Center bombing and continuing through later plots including inter alia the conspiracy to blow up airliners over the Pacific in 1994, the attack on the American barracks at Khobar Towers in 1996, the bombing of U.S. embassies in Kenya and Tanzania in 1998, the bombing of the Cole in Aden in 2000, and the attack on Sept. 11, 2001—criminal prosecutions have yielded about three dozen convictions, and even those have strained the financial and security resources of the federal courts near to the limit.

Second, consider that such prosecutions risk disclosure to our enemies of methods and sources of intelligence that can then be neutralized. Disclosure not only puts our secrets at risk, but also discourages allies abroad from sharing information with us lest it wind up in hostile hands.

And third, consider the distortions that arise from applying to national security cases generally the rules that apply to ordinary criminal cases.

On one end of the spectrum, the rules that apply to routine criminals who pursue finite goals are skewed, and properly so, to assure that only the highest level of proof will result in a conviction. But those rules do not protect a society that must gather information about, and at least incapacitate, people who have cosmic goals that they are intent on achieving by cataclysmic means.

Khalid Sheikh Mohammed, the mastermind of the 9/11 attacks, is said to have told his American captors that he wanted a lawyer and would see them in court. If the Supreme Court rules—in a case it has agreed to hear relating to Guantanamo detainees—that foreigners in U.S. custody enjoy the protection of our Constitution regardless of the place or circumstances of their apprehension, this bold joke could become a reality.

The director of an organization purporting to protect constitutional rights has announced that his goal is to unleash a flood of lawyers on Guantanamo so as to paralyze interrogation of detainees. Perhaps it bears mention that one unintended outcome of a Supreme Court ruling exercising jurisdiction over Guantanamo detainees may be that, in the future, capture of terrorism suspects will be forgone in favor of killing them. Or they may be put in the custody of other countries like Egypt or Pakistan that are famously not squeamish in their approach to interrogation—a practice, known as rendition, followed during the Clinton administration.

At the other end of the spectrum, if conventional legal rules are adapted to deal with a terrorist threat, whether by relaxed standards for conviction, searches, the admissibility of evidence or otherwise, those adaptations will infect and change the standards in ordinary cases with ordinary defendants in ordinary courts of law.

What is to be done? The Military Commissions Act of 2006 and the Detainee Treatment Act of 2005 appear to address principally the

detainees at Guantanamo. In any event, the Supreme Court's recently announced determination to review cases involving the Guantanamo detainees may end up making commissions, which the administration delayed in convening, no longer possible.

There have been several proposals for a new adjudicatory framework, notably by Andrew C. McCarthy and Alykhan Velshi of the Center for Law & Counterterrorism, and by former Deputy Attorney General George J. Terwilliger. Messrs. McCarthy and Velshi have urged the creation of a separate national security court staffed by independent, life-tenured judges to deal with the full gamut of national security issues, from intelligence gathering to prosecution. Mr. Terwilliger's more limited proposals address principally the need to incapacitate dangerous people, by using legal standards akin to those developed to handle civil commitment of the mentally ill.

These proposals deserve careful scrutiny by the public, and particularly by the U.S. Congress. It is Congress that authorized the use of armed force after Sept. 11—and it is Congress that has the constitutional authority to establish additional inferior courts as the need may be, or even to modify the Supreme Court's appellate jurisdiction.

Perhaps the world's greatest deliberative body (the Senate) and the people's house (the House of Representatives) could, while we still have the leisure, turn their considerable talents to deliberating how to fix a strained and mismatched legal system, before another cataclysm calls forth from the people demands for hastier and harsher results.

Mr. KYL. Mr. President, the only point I am making is that while it is possible to try these people in Federal court, it is very difficult. It frequently results in the disclosure of information that we don't want disclosed. I think it would be far better, if we can, to try these people in military commissions. The President has now said he would go forward with military commissions—modified to some extent—and I think that is a good thing for the trial of those who are suitable for that action.

The President also noted, of course, that there are going to be a lot of these terrorists who cannot be tried but are dangerous and need to be held, and the U.S. Supreme Court has affirmed the appropriateness of holding such people until the end of hostilities. The President has indicated that he would, in fact, do that.

I think there is no question, therefore, that we will be holding some of these people. The question is where best to do it. This is the nub of the argument that my colleague and fellow whip, the Senator from Illinois, and I have been having long distance. I relish the opportunity when we can both get our schedules straight to literally have a debate back and forth. I think it is an important topic.

I see now other colleagues are here, and so I will make one final point, and then I hope we can continue in this debate because I think it is a better policy to keep Guantanamo open and keep these prisoners there than to try to find some alternative.

Let me cite one statistic, and then make my primary point. According to the numbers I have—and I would be happy to share these with my colleague from Illinois with respect to the slots available in our supermax facilities, if I can find it—there are about 15 high security facilities which were built to hold 13,448 prisoners. Those facilities currently house more than 20,000 inmates.

The bottom line is that is not necessarily a supersolution either.

Did my colleague have a quick comment? I want to make my main point.

OK, thank you.

Here is my main point. There are those very credible people who say: Well, this is a recruitment symbol. Guantanamo prison is a recruitment symbol. I have no doubt they are right, it is a recruitment symbol. Several questions, however, are raised by that observation.

The first question is, even if it is false that there has been torture at Guantanamo prison—obviously, terrorists can believe falsehoods—should we take action based upon that falsehood?

The next question I think has to be asked is, does this mean, then, that other terrorist recruiting symbols need to be eliminated by the United States?

The third question is, would that eliminate their terrorism?

What is it exactly that animates these terrorists? Gitmo didn't even exist before some of the worst—in fact, before all of the worst terrorist attacks on the United States or U.S. facilities abroad. There was no Gitmo prior to 9/11. Yet we had all of the various attacks that occurred throughout the world leading up to 9/11 and 9/11 itself. They didn't need another reason to hate America. They didn't need another reason to be able to recruit people. They have all the reasons they can dream up.

I think the key reasons are that they fundamentally disagree with our way of life, and they believe they have an obligation, through jihad, to either get the infidels—that is all of us who don't agree with them—to bend to their will or to do away with us because they don't like our way of life. They do not like the fact that we have the culture we have. They do not like the fact that we give equal rights to women or that we have a democracy. There are a lot of things they hate about the Western World generally and about our society in particular.

These are obviously recruiting symbols and recruiting tools. Are we to do away with these things in order to please them? And even if we did, what effect would it have on their recruiting? Do you think they would then say: OK, great. You have closed Guantanamo prison, you have taken away women's rights, you are halfway home to us not recruiting anybody or terrorizing you anymore. If you will only get rid of the vote and institute Sharia law, we can start talking here.

I don't think that is the way they are going to act. They are going to have grievances against us no matter what. For us to assume we have to change our policies, to change what we think is in our best interests, simply to assuage their concerns because maybe they do use this as a recruiting tool, I think is to, in effect, hold our hands up and say: In the war against these Islamist terrorists, we have no real defenses because anything we do is going to make them unhappy. It is going to be a recruiting tool. After all, we wouldn't want to give them a recruiting tool.

I do not think it is too much of an exaggeration to make the point I made. One might say: Obviously, we are not going to give up our way of life. They are going to have to deal with that. Well, then they are going to keep recruiting. But we could at least get rid of Guantanamo prison. That would at least get rid of one thorn. Would it make a difference? Nobody believes it would make a difference.

The key point I make is—and this is just a disagreement reasonable people are going to have, I guess—I think Guantanamo is the best place to keep these people. My friend from Illinois thinks there are alternatives that are better and that, under the circumstances, we should make the change. Again, I observe that the American people seem to be on the side of not closing it down, and I do not think it all has to do with fear. I think it has to do with the commonsense notion that this is not going to remove terrorist recruiting. If it is better for us to keep them there, we might as well do that.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I ask consent to speak in morning business for 5 minutes. I see other Members are on the floor and I will finish after 5 minutes and yield the floor on this issue we have debated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I respect my colleague from Arizona and I respect the fact that we are on the floor together. This is a rarity in the Senate, where people with opposing viewpoints actually arrive at the same moment and have a chance at least to exchange points of view if not have more direct communication. I would say, as follows: I don't know what motivates the mind of a terrorist. I think I have some ideas and my colleague does as well. I do not know that we will ever be able to save every soul when it comes to those who are inclined toward terrorism. Let's face reality, it is like crime in this country. We all would like to see it go away, but we know, intuitively, there are some people who are bad people and do bad things and need to pay the price, and I think the same is true for terrorism.

But when President Obama goes to Cairo, Egypt, and appears to speak to the Islamic world about this new administration and its new approach when it comes to dealing with Islam and says as part of it that the United

States has forsworn torture in Guantanamo, he has said to the world: We are telling you this is a different day. It is a new day. For those who are not convinced in terrorism and extremism, at least understand that America is now ready to deal with you in an honest way, in a different way. What message does it send if the Congress turns around and says to the President: No, you can't say that to the Islamic world. We are going to keep Guantanamo open. We are going to keep this open, even if it is an irritant.

Don't take my word for it because I am not an expert in this field but those who are, many of them, believe Guantanamo should be closed. I would never question the sincerity or the resume of GEN Colin Powell, who has said close Guantanamo; GEN David Petraeus: Close Guantanamo; the Secretary of Defense: Close Guantanamo; President George W. Bush: Close Guantanamo.

All of these people who have seen the intelligence and have the background believe it is time to close that facility. This President is trying to make good on that promise by President Bush and turn the page when it comes to Guantanamo and its future. I think that is critical to bringing about a more peaceful world and reaching out and saying to this world: Things have changed.

I bet the Senator from Arizona joined me when we went upstairs to 407 and saw the photographs from Abu Ghraib. It is a moment none of us will ever forget as long as we live. Some of the things we saw there were gut-wrenching. I stood there with my colleagues, women and men, embarrassed at the things I looked at.

Some of those images are going to be with us for a long time, images that the people of the world have seen. We have to overcome them by saying it is a new day, and the clearest way to do that is to close Guantanamo in an orderly way, not to release any terrorists in the United States. On the question about whether we can incarcerate them—even if our prison population is as large as it is, there are facilities available. Once this President is given this option to reach out to States and this Nation, I am confident he will find accommodations in Federal prisons and supermax State prisons to deal with 240 people who are now left at Guantanamo. I think that is something we can expect to happen, and it will happen.

I will close by saying this: I asked the Senator from Kentucky twice if he would comment on what I heard to be his statement about whether this gentleman, Ahmed Ghailani, if found not guilty, would be released into the United States. He said Mr. Gibbs, the White House Press Secretary, had led him to that conclusion. I think, in fairness, Mr. Gibbs would say, clearly, he had no intention that this President or anyone in this administration would ever release this man, and there is no right under the law that he be released, even if he is found not guilty, into the U.S. population. It is not going to happen. I think raising that specter, raising that question, is raising that level of fear.

I do not think fear should guide us. America is not a strong nation cowering in the shadows in fear. America is a strong nation when we realize our challenge, stand together united, don't abandon our principles, and use the resources we have around the world to make certain we are safer.

The last point I will make is I have the greatest confidence in our system of justice, more than any in the world. I hope all my colleagues will have that same sense of confidence, that if the President sends a case to our courts of law, it will be handled professionally and fairly in the best possible manner.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I have enjoyed this debate between these two great Senators. It is an interesting debate. I come down on the fact, if they are moved into any of our facilities in this country—and there are very few that could take them; in fact, I do not know of any that can take them that are not overcrowded right now—there will be the same screaming and shouting because they will not be treated anywhere near as well as they are treated down there at Guantanamo. No matter what we do that new day is not going to be a very happy day. It is far better to have this $200 million state-of-the-art facility that has been approved by international organizations as being better than expected, better than average facilities that would be acceptable—it is better to acknowledge that and keep treating them as decently and with as much dignity as we can, which is more than they will get in a supermax facility in this country or any other facility.

The supermax facilities are loaded with prisoners. They have more than they can handle now. Why would we put terrorists in among them, and why would we put them in this country where they can influence other people who are dissatisfied with life and have been discontented and have committed very serious crimes and allow them the recruitment possibilities they would have in our country? It doesn't make sense.

Why would we blow $200 million on state-of-the-art facilities and then spend another $80 million to shut it down? It seems like it is going a little bit too far because of the attempt of this administration to please, basically, people who support terrorists and the rest of the world.

Admittedly, there have been some outstanding people in our country who have come to the conclusion they should shut Guantanamo down, but they did so without having a real, viable alternative to Guantanamo. That is the issue that bothers me. I don't know of any State in the Union that wants these people within their prison system, assuming they could handle them. It means a lot more expense, a lot more problems. It means the possibility that they will be recruiting terrorists and helping criminals to become terrorists in our country. I can't begin to tell you the cost to this society if we do that. Be that as it may, the President seems to want to do that in spite of the fact that overwhelmingly the American people don't want him to do that.

STATE SECRET PROTECTION ACT

Mr. HATCH. Mr. President, I rise today to express my reservations regarding the State Secrets Protection Act. Since one of the purposes of government is to provide a strong national defense, there are methods and sources that should never be disclosed for fear of irreparable damage to national security. The judicial branch has a long-documented history in addressing the state secrets privilege. Through the years, courts have affirmed time and again the privilege of the government to withhold information that would damage national security programs.

The modern origin of this doctrine was established in United States v. Reynolds. The Supreme Court created the Reynolds compromise, which stated that the privilege applies when the court is satisfied ''from all circumstances of the case, that there is a reasonable danger that compulsion of the evidence will expose military matters which, in the interest of national security, should not be divulged.'' That is what the Supreme Court has held, and it has continued to affirm this position with the utmost deference to the executive branch. Under Reynolds, the state secrets privilege cannot—and has not—been lightly invoked. The pending bill before the Judiciary Committee, known as the State Secrets Protection Act, would negate the Reynolds compromise and create a higher standard of proof for the government to assert the privilege.

My analysis of the legislation before us leads me to conclude that this bill will bring chaos to the balance struck by Reynolds. This bill lowers the deference that courts give to the executive branch in its assertion of the state secrets privilege. It raises the burden of proof that the government must meet to protect state secrets. The courts have built great flexibility into the state secrets doctrine to allow themselves the latitude to reach an effective compromise between the rights of litigants and the needs of national security. This is conducted on a case-by-case basis.

The writers of this bill want to redefine the standard to only afford protection under the state secrets privilege only when the disclosure of evidence is ''reasonably likely to cause significant harm'' to national security. This is a serious departure from the long established precedent of Reynolds. This has ramifications that would severely impede the protection of national security secrets. It is preposterous to abandon a standard that has more than 55

years of jurisprudential evolution and case law to support it. The Reynolds compromise says if there is reasonable danger then we secure the information. S. 417 says if it is reasonably likely, you can compromise the information. S. 417 fails to protect state secrets.

This state secrets privilege is never lightly used and never used with impunity. The assertion of this right must be made in writing by the head of the executive agency invoking the state secrets privilege. In recent cases this has sometimes been the Director of National Intelligence. Courts may conduct their own probe to ensure that the privilege has been invoke correctly. This probe will include an examination as to why the information being sought is needed to prove a plaintiff's case. Conversely, courts will examine as to why the information is critical to national security. After thoughtful review, a judge makes the determination on the production of evidence alleged to have been covered by the privilege. Not a law passed by politicians.

There is a myth that the Bush administration invoked the state secrets privilege more than any other previous administration. Rooted in this fallacy is the idea that the administration overreached in asserting the privilege to protect information not previously thought to be within its scope. This erroneous notion was propagated by not only the media, but by Members of this body. Most legal experts in the field of national security law have stated that it is not possible to collect accurate annual statistics for year-to-year comparisons. There is no ''batting average'' that can be empirically compared from one presidential administration to another.

To do so would incorrectly operate under the assumption that the government is presented with the same amount of cases each year in which the privilege can be asserted. It makes absolutely no sense to me to compare the administrations and judge them based on the total number of times they asserted the privilege.

The flow of litigation changes from year to year and varies from each administration, as does the invocation of the privilege. It varies because of the times and circumstances. We have been living in very difficult times and circumstances where we have to protect this country; circumstances we have never had to face before. Therefore, it is ludicrous that attempts to compare the rate of assertions of this privilege and arrive at the incorrect conclusion that because the Bush administration used this privilege it must be changed.

Unfortunately, for the authors of this bill, the data does not support the hypothesis that the Bush administration ever used the state secrets privilege in an attempt to dismiss complaints. Published opinions have revealed in the 1970s the government filed five motions. In the 1980s the government filed motions nine times. In the 1990s the government filed motions 13 times. Preliminary data available for the Bush administration indicate that the privilege was used 14 times.

Therefore, the impetus for the State Secrets Protection Act does not support the conclusion that the Bush administration blazed a new trial in national security law. On the contrary, the authors of this bill are the ones attempting to alter national security law. Keep in mind, we have been going through an extended war on terrorism, and, frankly, there is a need to protect national security. That is why we have the state secrets law.

In the first 100 days of the Obama administration—get that now—in the first 100 days of the Obama administration, the Department of Justice has invoked this privilege three times—in the first 100 days. This is the administration that was complaining about this. Now they found, when they faced reality and how important this privilege is, they changed their tune, and they should. I commend the administration and specifically the President for recognizing this.

The administration has picked up where the Bush administration left off in three pending cases: Al Haramain Islamic Foundation v. Obama, Mohammed v. Jepperson Data Plan, and Jewell v. NSA. During an interview of a widely revered liberal journalist, Attorney General Eric Holder stated that in his opinion the Bush administration—get this word—''correctly'' applied the state secrets privilege in these cases.

If this legislation is passed in its present form, private attorneys would be given access to highly classified declarations before a judge rules on whether the state secrets privilege should prevent such a disclosure. Can you imagine the harm that could come to our country? It is hard to believe that anybody would be advocating this in the Senate with what we have been going through and the special wars that we have been going through and the special type of terrorists that we have been having to put up with.

This legislation—lousy legislation—will have the effect of incentivizing lawsuits by rewarding attorneys who file lawsuits with a security clearance. I remember one case in New York where the attorney herself was convicted because she was passing on information.

Now this clearance will grant these attorneys access to classified information that if divulged could reasonably harm our national security interests. It is bad enough trying to keep secrets around here, let alone with people who really should not be qualified for that type of classification. Does an attorney need absolute proof of some violation of law to file a lawsuit to learn details about classified programs? No, under this bill, they simply need to make an accusation. Any accusation will do.

Ensuring national security programs stay classified is critical to our citizens' continued safety. Under this legislation, private attorneys, regardless of the merits of their lawsuits, will be given access to our Nation's secrets, secrets that are critical to the protection of our country. It is not hard to see how this legislation could seriously harm national security.

It is hard for me to see why anybody would be arguing for this legislation. It is a legitimate concern that ideological attorneys would be willing to compromise national security interests and secrets and disclose classified information. There are at least two recent instances involving the disclosure of classified information. These are recent. I am just talking about the recent ones, and then only two of them. There may be more.

In May 2007, a Navy JAG lawyer leaked classified information pertaining to Guantanamo detainees to a human rights lawyer. I find it disturbing that a U.S. military officer who is sworn to protect this Nation would disseminate classified information. But an even more troubling scenario is posed by private attorneys. In 2005, a more alarming case came to light when a civilian defense counsel was convicted of providing material support for a terrorist conspiracy by smuggling messages from her client, a Muslim cleric convicted of terrorism, to his Islamic fundamentalist followers in Egypt.

Do you know how difficult it was to convict an Islamic fundamentalist religious leader? Yet this man was convicted, and rightly so. His attorney compromised these matters. In press interviews after the attorney was convicted, she said, ''I would do it again—it's the way lawyers are supposed to behave.''

She also said that ''you can't lock up the lawyers. You cannot tell the lawyers how to do their job.''

I am not implying that all lawyers would act so egregiously. What I am saying is there is a profound reason why the government has classifications for categorizing the sensitivity of information that is vital to national security. Providing top secret clearances to persons outside the employment of the United States is a colossal blunder. This bill will allow that.

The courts recognize the executive branch's superior knowledge on military, diplomatic, and national security matters. Judges do not relish the thought of second-guessing decisions made by officials who are better versed on matters that may be jeopardized by allowing attorneys access to classified materials. Similarly, Congress should not relish the thought of second-guessing the judgment of courts that have given careful consideration regarding the appropriate legal standards to balance the interests of judges and national security programs.

The State Securities Protection Act does not protect state secrets. This bill upsets the judicially developed balance between protection of national security and private litigants' access to secret

documents. The judicial branch has crafted a state secrets doctrine to give judges the flexibility to weigh these interests with appropriate deference to the executive branch. This judicially crafted doctrine is more than sufficient and has evolved from the 1912 case of Firth Sterling to Reynolds to current cases such as Hepting and Al Masri.

The State Secrets Protection Act is unnecessary and potentially harmful to national security. Unless serious changes are made to this legislation and the amendments offered by myself and my Republican colleagues are adopted, I cannot in good conscience vote this bill out of committee. I do not know how any Senator sitting in this body can do so.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I ask unanimous consent to speak as in morning business for 12 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

GUANTANAMO

Mr. INHOFE. Mr. President, I have come to the floor over the past several years, countless times, talking about a resource we have called Guantanamo Bay. People refer to it as Gitmo.

I was distressed about some of the statements our President made when he made the comment that we are going to close Gitmo and make sure there is no more torture. I have to say, there has never been one documented case of torture in Guantanamo Bay. It is ludicrous that people would say this. Every time I talk to someone who says we have to close Guantanamo Bay and you ask them what the reason for that is, they turn around and they say: It is because the people in the Middle East and some people in Europe think there is torture that has been going on. It goes back to the Abu Ghraib thing. This had nothing to do with Abu Ghraib. There has never been a documented case of torture.

Let's look at this resource. We got Gitmo in 1903. It is one of the best bargains we have had in government because we only paid $4,000 a year for this. It is a state-of-the-art prison. We don't have anything in the United States that is as secure and as humane as Gitmo. They have a ratio of doctors to detainees of two to one, the same with legal help. I have been down there several times. If you talk to the ones who won't be throwing something at you, they will tell you they have never had food and treatment as good as they have had down there. I can't imagine we would take a resource such as that and close it down and bring some 200 or 240 terrorists to the United States. Yet that is exactly what the President is talking about doing.

I was shocked when I picked up the newspaper on Monday morning and saw that Ahmed Ghailani, who was the terrorist who bombed the embassies in Tanzania and Kenya, was actually brought to the United States. He is in New York today. I didn't know about it until I read it in the newspaper. He is going to be adjudicated or go to trial in our court system.

Here is the problem we have with that. These people in Guantanamo Bay are terrorists, detainees. These are not criminals. These are not people who committed a crime. They are not people to whom the normal rules of evidence would apply. In fact, most of the rules of evidence, it was assumed, would be in the form of military tribunals. Of course, those rules are different than they are in the court system. What will happen when you have some of the worst terrorists in the world coming up and getting tried in our system and we find out they have to be acquitted because the rules of evidence are not what they were during the time they were brought into custody?

We have this resource we have used since 1903. It is the only place in the world we can actually put detainees. The President has said there are some 17 prisons in the United States where we can incarcerate these people. I suggest—and I don't think anyone will refute this—if you did that, you would have 17 magnets for terrorism.

One of the places they suggested happened to be Fort Sill in Oklahoma. I went down to Fort Sill. There is a young lady there who is a sergeant major in charge of our prison. She said: What is wrong with those people in Washington? What is wrong with the President, thinking that we can incarcerate terrorists here in Oklahoma?

This young lady was also a sergeant major at Guantanamo just a few months ago. She went back and she said: That is the greatest facility. There is no place where we can replicate that thing.

She said: On top of that, we have the courtroom that was built.

We spent 12 months and $12 million on a courtroom where we could have military tribunals, and they were going on. And President Obama ordered them to stop, and he wanted to bring them to the United States to be adjudicated here. This is outrageous.

I have heard people on the Senate floor talk about how bad Guantanamo Bay is. They will never be specific. They will never talk about what is wrong with Guantanamo Bay. What are they doing? Are they torturing people? No. Are they being mistreated? No. There are six levels of security. When you are dealing with terrorist detainees, you have to put them in areas where the level of their activity is greater and requires more or less security, and we have that opportunity to do it there. No place else in America, no place else in the world can they do that.

By the way, it is not just 245 detainees whom we have to deal with. It is worse than that because in Afghanistan, with the surge taking place right now, there will be more detainees. There are two major prisons: Bagram—and I can't remember the other one in Afghanistan. They will say they could be incarcerated there. No, they won't, because they won't accept any detainees who are not from Afghanistan. So if they are from Djibouti or from Saudi Arabia or someplace else, we have to have a place to put them or else you turn them loose or else you execute them.

A lot of these people who think they should not be incarcerated in any prison at all, you have to keep in mind, you can't turn them loose on society. These are people who are not normal, people like normal criminals. First of all, they have no fear of death. It is just ingrained in them. These are people who want to kill all of us. So we are talking about very dangerous people.

I am very much concerned. I did not believe President Obama would go through with bringing terrorists to the United States. I didn't think that would happen. Yet I picked up the paper Monday morning and there it is. Ahmed Ghailani, one of the worst terrorists around, killed 244 people, many Americans, in Tanzania and Kenya. This is something that I know the American people don't want. I would hope many of my good Democratic friends are not going to line up and support President Obama in bringing these terrorists to the United States.

I guess I am prejudiced. I have 20 kids and grandkids. I don't want a bunch of terrorists in this country where they are subjected to that type of thing. The fact is, they would be magnets; there is no doubt in my mind. This Sergeant Major Carter at Fort Sill said that if we put them down there, they would be in a position where it would draw terrorist activity to my State of Oklahoma.

By the way, I think there are 27 State legislatures that have passed resolutions saying they don't want any of the detainees located in their States. I can assure my colleagues that every one of the 17 proposed sites that would house these people is a site where they have passed resolutions saying: We don't want them here.

The liberal press is always talking about how bad things are and we have to close Gitmo. If you go down there, you find that those people have never been there. Almost without exception—I don't know of one exception where if they have gone down there and they have seen how humanely people are treated, they have seen a resource down there that we can't replicate any place in the United States, they come back shaking their heads saying: What is wrong with keeping Gitmo open? Even Al Jazeera went down there. That is a Middle Eastern network. They went down and had to admit publicly that the treatment was better there

than it is in any of the prisons they are familiar with.

Abu Ghraib was a different situation. Yes, some of our troops were involved in that. Most people wouldn't call it torture. It is more humiliation than anything else. But nonetheless, they did that. But the interesting thing about Abu Ghraib is, prior to the time that the public was aware that was going on, the Army had already come in and started their discipline, and it stopped that type of thing from taking place. But even if it weren't, for people to think just because there was something in their minds that was torture that was going on in Abu Ghraib, to even suggest that was going on in Guantanamo Bay is totally fictitious.

I have been privileged to take several Members down with me to see this firsthand. I think every Member of the Senate should have to go down and see for himself or herself what is really going on down there.

We can't afford to take a chance on turning terrorists loose in the United States. The polling that came out just this morning showed that by a margin of 3 to 1, people do not want to close Guantanamo Bay. We have to keep Gitmo open.

I was in a state of shock when I found out that one of the worst terrorists incarcerated down there was brought back to face justice in our court system in New York.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BEGICH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BEGICH. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING NICKY HAYDEN

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to Nicky Hayden, a native of Owensboro, KY., who has followed his passion and is an inspiration for all Kentuckians.

Hayden is among the world's elite in Grand Prix motorcycle racing. Driving at speeds of up to 200 miles per hour, with his knees sometimes only inches off of the ground, Hayden has won countless races all over the world

Nicky's racing career has led him to win the Moto Grand Prix Championship in 2006, the AMA Superbike Championship in 2002, and the AMA Supersport 600 Championship in 1999.

Nicky's parents, Earl and Rose Hayden, could not be more proud of what their son has already accomplished since he began racing at a very young age.

An article in the June 2009 edition of Kentucky Living magazine chronicled Nicky's career, highlighting his exciting and successful career, his extensive travel schedule, and his love of his home State and town. I ask unanimous consent to have the full article printed in the CONGRESSIONAL RECORD.

Mr. President, I further ask my colleagues to join me in recognizing the achievements of Nicky Hayden and I wish him continued success throughout his career.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Kentucky Living, June 2009]

NICKY HAYDEN, THE KENTUCKY KID

(By Gary P. West)

When fans call you The Kentucky Kid and you race throughout the world on a motorcycle at speeds in excess of 200 miles per hour, you better believe you have to be good, real good.

That's what 28-year-old Nicky Hayden from Owensboro does, and as a professional motorcycle racer, who started out in the sport long before he was big enough for his feet to touch the ground while seated, he has become one of the biggest names in the sport.

Nicky was back home in Owensboro, or OWB as he calls it, taking the name from the local airport, on a summer break from an 18-race schedule that begins in March and ends in November.

''I travel 11 months a year,'' he says. ''But I love coming home to my family. Family's important to me. Growing up here with my two brothers and two sisters, I have everything I want. My mom was from a big farm family, 11 brothers and sisters, so my family has always been close. I don't want to live in Monaco or anywhere else like that.''

Nicky's parents, Earl and Rose, once upon a time, enjoyed the thrill of going fast on motorcycles themselves. Earl raced often and won on dirt tracks, while Rose competed successfully in ''powder puff' leagues, but when their family began to expand, they turned to introducing their three sons to the sport.

While older brother Tommy and younger brother Roger have had successful professional riding stints, it's Nicky who has risen to world-class status winning the MotoGP or Grand Prix, the sport's most elite level of motorcycle racing. As the World Champion in 2006, he has picked up several other accolades that might be expected for a handsome bachelor who hangs out with jetsetters throughout Europe and the United States.

Nicky often finds himself far removed from his Owensboro home in order to race against riders from Italy, Spain, Portugal, Australia, and other countries throughout the world. But it's his return visits to Kentucky and his family and friends that help him keep his Daviess County values.

Swerving through curves, routinely leaning his motorcycle so far on its sides that the friction from the asphalt eats into his knee pucks, Hayden and his cycle appear to defy the law of gravity. Riding on the edge of traction, the slightest loss of concentration and his race is over.

Motorcycle racing, considered by many to be a daredevil sport, has gained its popularity on dirt tracks throughout America over the years. But with the strong influence of his parents, one question begs to be asked. Considering Owensboro's reputation as a hotbed for stock car racing how did the Hayden family stay focused on motorcycles?

With Owensboro names like Waltrip, Green, and Mayfield, all established NASCAR stars, it seems like it would have been easier to catch on with automobile racing.

But Hayden's star was growing at a much earlier age than it takes to get a ride in a car at Daytona.

By the age of 17, and still in high school at Owensboro Catholic, he was racing factory Honda RC45 superbikes and winning. In 2002, at the age of 21, he won the Daytona 200 while becoming the youngest ever to win an AMA Superbike Championship. He was years removed from the days when his parents would hold his bike in place for the start of a race because he was too small to touch the ground.

Soon after, Honda tapped The Kentucky Kid to join what many in the business consider the elite team in MotoGP racing, Repsol Honda. Earning rookie-of-the-year honors on the circuit his first year, his racing togs began to take on more sponsors than an Indy car. A jewelry line, clothing, sunglasses, tires, energy drink, watches, and, of course, Repsol, an oil and gas company operating in more than 30 countries, cover almost every inch of his protective racing ware.

With his boyish good looks and success as an international motorcycle racer, it was of little surprise when Hayden was listed among People magazine's 50 Hottest Bachelors in 2005.

That was followed by appearances on the Today Show, Jay Leno's Tonight Show, and a two-hour documentary on MTV appropriately called The Kentucky Kid, which chronicled his 2006 championship season. ''It gave us good exposure in a market we hadn't been in,'' says Nicky.

Rubbing elbows and shaking hands with the likes of Michael Jordan, Brad Pitt, and Tom Cruise, and seeing your picture on a full-page Honda ad and in USA Today, further points out the two worlds Nicky lives in.

It did not come, however, without some difficulties and second-guessing. Family closeness made Nicky's travels throughout the world difficult at times, especially that first year in MotoGP competition.

''It was another world to me,'' recalls Nicky. ''I was learning the bike, my team, the hectic travel schedule, and everything that went with it. My two brothers and I always trained, practiced, and rode together and then the next year I was out there by myself.''

With Nicky and his family growing up on Rose's home-cooked meals, the sudden change in culinary choices as he traveled presented some problems.

''Oh, yeah, food was definitely an issue,'' his voice rising to emphasize the point. ''It's not much fun being on an airplane with food poisoning. There have been several nights I have gone to bed hungry, and when I was in China I lived on watermelon for a while.'' ''At the races I stay in a motor home at the track,'' he says.

One of the perks of racing at this level is that a motor home is delivered to each of his European races. It also includes an English-speaking satellite television that he says helped to overcome his loneliness.

The entire setting is thousands of miles removed from his Daviess County home, and thousands of thoughts about those days when he couldn't wait to finish high school and race motorcycles. It was his only thought.

''I did just enough in school to get by'' to keep my grades up so my parents would let

me race. I'm not proud of it, but I was so involved with racing it's about all I could think of,'' he says.

The brothers would fly out to races all over the U.S. and then catch the red-eye flights back in order to get back to school. It was difficult to stay focused on academics. In his junior year of high school, he had signed a six-figure contract and was driving a new truck. It was easy to see why the 17-year-old was not fully committed to school. In his words, the library and any required research were not a priority.

Racing motorcycles all over the world, Nicky has lost count of the number of countries he's visited. Not only is MotoGP racing fast on the track, but off as well. Nicky and his Repsol Honda teammate Dani Pedrosa, from Spain, travel with a sizeable entourage, finishing one race and immediately heading to another, much like a circus breaking down the Big Top and moving on to the next gig.

''We have about 75 people that go everywhere with us,'' Nicky says. ''We have our own chef who prepares all of the food for the team. Then there are the mechanics, agents, trainers, engineers, tire, and hospitality people. It's a lot of people.''

Make no mistake about it, MotoGP racing is big business. The custom Honda motorcycle, according to Nicky, cost in excess of a million dollars to build. The titanium and carbon racing machine is so aerodynamically designed with the very latest in technology that every piece, including the nuts and bolts, is custom-made. For sure this is not an assembly-line product. Weighing 325 pounds and sporting somewhere around 250hp, this mechanized piece of art can blast from 0 to 60 in less than three seconds.

Sponsors pay big bucks to have their names associated with The Kentucky Kid. With it comes a certain amount of pressure to excel. Following his world championship 2006 season, Nicky finished eighth in points. And at the end of the 2008 season, the result was the same, eighth.

''After being a world champion, I put pressure on myself,'' he says. ''I hope my best years are ahead of me. This is a good age in this sport for riders.''

When listening to Nicky talk about his racing future, it takes awhile before he says what he wants to do when his riding days are over.

Somehow, the subject just doesn't easily come up unless someone else asks about it.

''I really don't have a plan B,'' he says. ''I know I want to race well into my 30s.''

For sure Nicky doesn't have to look very far to see the personal devastation this daredevil sport can dish out or how quickly it could end. Back home in Owensboro last July, Nicky was enjoying several days of a summer break far from MotoGP. Also there were Tommy and Roger, who both ride on the AMA Superbike Tour. But they were home not because they necessarily wanted to be. They were recovering. Roger, who rides a factory bike for Kawasaki, had crashed several weeks earlier in Alabama, breaking his pelvis and vertebrae. A week later, Tommy, a rider for Suzuki, took a hard tumble in California, breaking bones in his back and puncturing a lung.

''It was crazy,'' says Nicky. ''The next week I went down in Portugal but was not seriously injured.''

For the most part Hayden has avoided serious injury. In August 2004, however, while training in Italy near Milan, he broke his right collarbone. Following surgery that involved inserting a plate, he was back racing in a few weeks.

Tragedy did strike the Hayden family. In May of 2007, Nicky's second cousin, 10-year-old Ethan Gillim, died as a result of a motorcycle accident in a race in Paducah. Ethan had started racing when he was 4, and in six years attained 18 national dirt track titles.

The Hayden's all three brothers are professionally represented by a management company, International Racers, out of Irvine, California. At the level Nicky is racing, the company has a full-time agent who accompanies him during the season in order to maximize the promotional opportunities for their star client.

A season of MotoGP consists of 18 races held in 16 different countries, and in 2008 two of these races were held in the United States, in Laguna Seca, California, and Indianapolis, Indiana. Throughout Europe, the sport has almost a cult-like following. Televised races attract in excess of 300 million viewers for each event, and another 200,000 frequently show up to see the races live.

''For sure the U.S. market hasn't been tapped,'' Nicky says. ''I know there is an effort now being made to do it.''

To help promote that market, just before last year's Indianapolis 500, Nicky blasted two laps around the 2½–mile track, giving car race fans a sampling of what was to come later in September with the 14th round of the 2008 MotoGP.

What will help increase the visibility in this country, perhaps, is for more American riders to achieve success. Currently there are only four, including Hayden, on a circuit dominated by foreign riders and sponsors.

As they should be, all of the Hayden's have been well-compensated for their successes. Many Americans may be surprised to learn that Valentino Rossi, considered to be the best motorcycle racer in the world, earns a reported $30 million a year.

At the end of 2008's season, a new twist emerged with some big changes. For some time Nicky and Honda had been at odds, first about the way the manufacturer set his bike up and then it was a tire issue. They wanted Bridgestone tires and Nicky likes Michelin.

Soon the split became too much to overcome and now The Kentucky Kid rides for Ducati, an Italian bike company. He and Australian Casey Stoner are Ducati's featured riders, with Nicky kicking off the 2009 season on his 100th GP race with a new bike, a new team, and a new color.

As Nicky updates his fans on a video on his Web site, www.NickyHayden.com, ''Honestly, I think red is a good color for me. I think it could be a good look and anything up front looks good. I mean, I could be up there in pink polka dots if you're winning races, I think you could pull it off.''

With Nicky now on a Ducati, Tommy a Suzuki, and Roger a Kawasaki, the three have always been there for each other. All have achieved success in one form or another. The goal, of course, is to be good enough and fast enough to get a podium. In motorcycle racing terms that means first, second, or third. All three have had their share, but like any competitive athlete they want more.

REMEMBERING TAYLOR HENRY CARR, M.D.

Mr. CRAPO. Mr. President, today I wish to pay tribute to and recognize the passing of a remarkable citizen from my home State of Idaho, Dr. Taylor Henry Carr. He served his country as a gunnery officer in the Navy and he served his community as a doctor and philanthropist. He was a prime example of an American father, citizen, and patriot. He was also my uncle, and I am proud to be his nephew. As a doctor, he did much for the families of Idaho Falls, and, as a philanthropist, he did much for the community itself. Idaho Falls will miss him but will continue to benefit from the efforts of all those whom he influenced.

Dr. Carr's accomplishments attest to his contribution to his community and country. He was a Boy Scout and a gunnery officer in the Navy. He was editor of his college newspaper and student body president. He earned an undergraduate degree in pharmacy and a graduate degree in medicine. Over the course of his career, he served in many different roles including director of the Idaho Cancer Society, president of staff at Sacred Heart Hospital, and on the Board of Directors of the ISU Alumni Association.

Dr. Carr's favorite activities included fishing, golfing, skiing, and reading. He was a devoted husband to his wife Betty and a loving father to his seven children. In 2003, the Carr family won the Idaho Falls Arts Council's annual Support of the Arts award for contributions to the Eagle Rock Art Museum, the renovation of the Museum of Idaho, and the Willard Arts Center, the main gallery of which is named after Taylor and Betty Carr.

I remember, when I was young, spending as much time at my Uncle Carr's house as at my own. I learned a lot from him, as did so many others. He always expected you to be and do your best so as to better live up to your potential. Taylor Henry Carr fully lived up to his potential before passing away on April 24, 2009. He was an excellent example of the great citizens produced by my home State and his life is an excellent example for all Americans to follow.

ADDITIONAL STATEMENTS

REMEMBERING JACK HENNING

• Mrs. BOXER. Mr. President, it is with a heavy heart that I ask my colleagues to join me today in honoring the memory of an extraordinary labor leader, civil servant, and dear friend of mine, John F. ''Jack'' Henning. Jack's legendary activism and innovation in the labor movement will serve as a source of inspiration for decades to come. Jack passed away on June 4, 2009. He was 93 years old.

Jack Henning was born in San Francisco on October 25, 1915, to hard-working Irish-American parents. After he graduated from St. Mary's College with a degree in English literature, he began what would become a lifelong and immensely successful career in the labor movement. In 1938, Jack began working for the Association of Catholic Unionists in San Francisco, and in 1949 he was hired by the California Labor Federation.

Recognizing Jack's exemplary leadership, hard work, and compassion for his fellow-man, former California Governor Pat Brown named him director of the California Department of Industrial Relations in 1959. A public servant

and leader at both state and federal levels, Jack also served as Under Secretary of Labor under President Kennedy and was later appointed as U.S. Ambassador to New Zealand by President Johnson.

With an already impressive and accomplished career behind him, Jack returned to California in 1970 and continued his life-long effort to improve conditions for working Americans. For 26 years Jack served as the executive secretary-treasurer of the California Labor Federation, AFL–CIO, representing over 2 million workers.

Jack's leadership in the labor movement had a huge impact on workers across California and the Nation. A friend and colleague of Cesar Chavez, Jack worked alongside the United Farm Workers to pass California's groundbreaking Agricultural Labor Relations Act in 1975, which established the right to collective bargaining for farm workers. Jack went on to fight many successful battles for improvements in worker safety and compensation laws.

Jack's belief in, and dedication to, equal rights was not limited to the labor movement. Jack also fought against ignorance and racial discrimination. As the Regent for the University of California from 1977 to 1989, Jack worked to establish affirmative action policies and encouraged the University to divest from South Africa in protest of the country's support of apartheid.

Jack stood out as a driven organizer and hard worker who cared for his community deeply. Jack will be remembered by his friends and partners in the labor movement as a visionary, a talented orator, and stalwart defender of equal rights. He was a champion for workers everywhere, and he will be sorely missed. We take comfort in knowing that the future of the labor movement will continue to benefit from Jack's dedication for generations to come. We will always be grateful for Jack's example of a steadfast commitment to social and economic justice.

Jack is survived by his five sons, John Jr., Patrick, Brian, Daniel, and Thomas; two daughters, Nancy Goulde and Mary Henning; 12 grandchildren; and six great-grandchildren. My thoughts are with Jack's family at this difficult time.●

COMMENDING BARKWHEATS DOG BISCUITS

● Ms. SNOWE. Mr. President, today I wish to recognize the successful and thriving business of a young and insightful entrepreneur from my home State of Maine whose line of dog treats is truly one of a kind.

Barkwheats Dog Biscuits was founded in 2007 by entrepreneur Chris Roberts. A native of the Bangor area, Mr. Roberts left Maine to attend college and pursue a career as a recording engineer in Nashville. Upon returning to Maine, Mr. Roberts found himself baking frequently, a skill he developed while a baker at the University of Maine. This gradually led Mr. Roberts to begin baking for his two dogs, Baxter and Sabine, both rescued mixed-breeds. His passion for cooking soon led him to open Barkwheats, and he began making two varieties of all-natural dog biscuits: sea vegetables and chamomile, as well as ginger and parsley, the latter of which provides relief from dogs' bad breath.

In November 2007, Mr. Roberts began selling the biscuits at local farmers markets and organic cooperatives in the midcoast Maine region, near his home in Stockton Springs, as well as online. In very short order, the product gained immense popularity, due in large part to tourists who purchased the biscuits for their dogs. Upon returning home, these people began clamoring for Barkwheats at their local stores. He now ships his biscuits to dozens of pet stores across the country, including as far away as Alaska. Additionally, Barkwheats' products have been featured in newspapers, blogs, and magazines across the country, including Animal Wellness Magazine and ModernDog. To keep up with the demand, Mr. Roberts also purchased a machine that makes 2,300 biscuits per hour!

Barkwheats biscuits are completely organic, and over 95 percent of the ingredients come from local, Maine farmers in neighboring towns and counties. To support the State's economy and ensure that all items are fresh, Mr. Roberts purchases buckwheat from farmers in Union, eggs from Gouldsboro, parsley from Pittsfield, honey from Swanville, and even seaweed from off the Machias coast. Unable to find a farmer who produced ginger locally, he collaborated with Sustainable Harvest International, a Maine company that helps Central American farmers improve their lives while simultaneously restoring tropical forests, to purchase ginger from southern Belize. As a result of its efforts, Barkwheats Dog Biscuits is expected to be named the first Fair Trade Certified pet treat later this summer. Additionally, in an effort to care for the environment, Barkwheats dog biscuits are packed in 100 percent compostable recycled boxes, as well as bags made from wood pulp.

Chris Roberts' tasty treats represent a truly innovative way to combine supporting the local economy and giving pet owners a healthy, gluten-free option for their dogs. I commend Chris Roberts for his innovation and determination, and wish him continued success with his burgeoning business.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 1:54 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 885. An act to elevate the Inspector General of certain Federal entities to an Inspector General appointed pursuant to section 3 of the Inspector General Act of 1978.

H.R. 1741. An act to require the Attorney General to make competitive grants to eligible State, tribal, and local governments to establish and maintain certain protection and witness assistance programs.

H.R. 2344. An act to amend section 114 of title 17, United States Code, to provide for agreements for the reproduction and performance of sound recordings by webcasters.

H.R. 2675. An act to amend title II of the Antitrust Criminal Penalty Enhancement and Reform Act of 2004 to extend the operation of such title for a 1-year period ending June 22, 2010.

H.R. 2751. An act to accelerate motor fuel savings nationwide and provide incentives to registered owners of high polluting automobiles to replace such automobiles with new fuel efficient and less polluting automobiles.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1741. To require the Attorney General to make competitive grants to eligible State, tribal, and local governments to establish and maintain certain protection and witness assistance programs; to the Committee on the Judiciary.

MEASURES DISCHARGED

The following bill was discharged from the Committee on Agriculture, Nutrition, and Forestry, and referred as indicated:

S. 1122. A bill to authorize the Secretary of Agriculture and the Secretary of the Interior to enter into cooperative agreements with State foresters authorizing State foresters to provide certain forest, rangeland, and watershed restoration and protection services; to the Committee on Energy and Natural Resources.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 2751. An act to accelerate motor fuel savings nationwide and provide incentives to registered owners of high polluting automobiles to replace such automobiles with new fuel efficient and less polluting automobiles.

S. 1232. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–27. A joint resolution adopted by the Legislature of the State of Utah urging the opposition of federal legislation that would interfere with a state's authority to direct the transport or processing of horses; to the Committee on Agriculture, Nutrition, and Forestry.

HOUSE JOINT RESOLUTION NO. 7

Whereas, the processing of horses has become a controversial and emotional issue and has resulted in the closing of all horse processing facilities throughout the United States;

Whereas, federal legislation has been introduced to amend the 1970 Horse Protection Act that would prohibit the shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation of horses and other equines for processing and other purposes;

Whereas, the loss of secondary markets has severely impacted the livestock industry by eliminating the salvage value of horses and has significantly reduced the market value of all horses;

Whereas, prohibitions regarding the processing of horses have resulted in significant increases in abandoned and starving animals and have had significant economic impact on the entire equine industry;

Whereas, the increase in unwanted or unusable horses has overwhelmed private animal welfare agencies and the public's ability to care for surplus domestic horses;

Whereas, the annual number of unwanted or unusable surplus domestic horses in the United States is currently estimated at 100,000 and continues to increase;

Whereas, issues related to the humane handling and slaughter of surplus domestic horses are best addressed by proper regulations and inspection and not by banning or exporting the issues; and

Whereas, state agriculture and rural leaders recognize the necessity and benefit of a state's ability to direct the transport and processing of horses: Now, Therefore, be it

Resolved, That the Legislature of the state of Utah urges the United States Congress to oppose federal legislation that interferes with a state's ability to direct the transport or processing of horses; be it further

Resolved, That a copy of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and to the members of Utah's Congressional delegation.

POM–28. A joint resolution adopted by the Legislature of the State of Utah urging the National Collegiate Athletic Association to abandon the Bowl Championship Series (BCS) structure in favor of a college football playoff system; to the Committee on Commerce, Science, and Transportation.

SENATE JOINT RESOLUTION NO. 11

Whereas, the University of Utah football team finished the 2008 football season as the only undefeated football team in Division I–A, with a perfect 13–0 record;

Whereas, the University of Utah football team capped a season-long string of victories at the Sugar Bowl with an impressive 31–17 win over the University of Alabama, which held the number one ranking in the nation for five weeks;

Whereas, during the regular season, the Mountain West Conference had three teams in the Top 25 and had a 6–1 record against Pac-10 teams;

Whereas. in the 2008 season, the University of Utah football team defeated six bowl teams ranked in the Top 25, and won seven games away from home;

Whereas, as the matter currently stands, the University could go undefeated indefinitely and still not compete for a national title;

Whereas, the Bowl Championship Series (BCS) began in 1998 with the intent of crowning a definite national champion;

Whereas, the BCS relies on a combination of polls and computer rankings to determine which teams play in the BCS national championship game and help set the line-ups for the most prestigious bowl games.

Whereas, although the BCS may be an improvement over past championship determinations, the system is still widely acknowledged as falling short of its goal of establishing a definitive college football champion;

Whereas, many experts have candidly criticized the flaws in the BCS system and often use the 2008 University of Utah football team as the strongest argument for the failings of the system; and

Whereas, a national playoff is the only way to be certain that the team crowned as national champion has earned the designation on the gridiron: Now, therefore, be it

Resolved, That the Legislature of the State of Utah strongly urges the National Collegiate Athletic Association to abandon the Bowl Championship Series (BCS) structure for determining the Division I–A national football champion in favor of a playoff system so that all can be assured that the best college football team is the one crowned as national champion; be it further

Resolved, That a copy of this resolution be sent to the National Collegiate Athletic Association, the BCS, the University of Utah football team, to the members of Utah's congressional delegation, and to President Barack Obama.

POM–29. A concurrent resolution adopted by the Legislature of the State of Utah expressing support for the current Bureau of Land Management resource management plans and the process used to complete the plans; to the Committee on Energy and Natural Resources.

HOUSE CONCURRENT RESOLUTION NO. 8

Whereas, because the nation's dependence on foreign sources of energy leaves the economy vulnerable, serious effort must be devoted to decrease the nation's dependency on foreign energy sources;

Whereas, oil and natural gas form an essential bridge to attaining a future of energy independence sustained by alternative and renewable energy sources;

Whereas, the Federal Land Policy and Management Act (Act) mandates that the Federal Bureau of Land Management (BLM) manage public lands for multiple uses such as outdoor recreation, livestock grazing, energy exploration and production, conservation, and timber production;

Whereas, the Act establishes that the BLM sustain the health, diversity, and, productivity of public lands for the use and enjoyment of present and future generations;

Whereas, in making decisions about land use, the Act requires the BLM to develop resource management plans and update them periodically;

Whereas, these important land use management decision documents require public input and participation;

Whereas, managing the nation's cherished public lands for multiple uses is a constant challenge;

Whereas, citizens expect the BLM to provide responsible energy and minerals development, recreational opportunities, appropriate access, and healthy landscapes, while still providing an adequate level of resource protection to ensure that future generations will continue to benefit from and enjoy these areas;

Whereas, the resource management plan process, developed by the BLM to accomplish these goals, is thorough, deliberative and very public;

Whereas, resource management plans provide administrative protections to some lands, including major constraints such as no surface occupancy and disturbance timing stipulations;

Whereas, extensive state and community input is invited and submitted both in writing and through the public hearing process;

Whereas, resource management plans for the Moab, Richfield, Price, Vernal, Monticello, and Kanab Field Offices recently went into effect after approximately eight years of development and review;

Whereas, hundreds of thousands of public comments were considered during the Enrolled Copy planning process;

Whereas, new environmental restrictions included in the resource management plans provide multiple layers of safeguards to prevent environmental damage to sensitive natural resources;

Whereas, the proposed plans envision maintaining areas open to oil and gas leasing, but also institute protective measures during development like timing limitations, best management practices, and advanced technology to minimize the footprint of developing important resources;

Whereas, there was no cutting of corners or abridgment of processes in preparing the resource management plans;

Whereas, due to the strong feelings regarding the use of public lands, every private group and government entity involved in the process would like to see some changes in the outcome, but all groups were heard and their concerns given thoughtful and careful consideration;

Whereas, the state of Utah and Uintah, Duchesne, Grand, Emery, San Juan, Sevier, Garfield, Kane, Wayne, Piute, and Carbon Counties were cooperating agencies in the BLM's development of the current resource management plans and have interests in preserving the plans;

Whereas, upon approval of these management plans, the BLM offered for lease parcels of land which had been set aside for several years pending completion of the resource management plans;

Whereas, leases do not convey an unlimited right to explore or an unlimited right to develop oil and gas resources, but are subject to terms designed to minimize and mitigate the impacts of development;

Whereas, in addition to proposing an accommodation for the nation's pressing need for energy development, the plans also propose protecting public lands within the six planning areas where there are sensitive natural resources, making these lands off limits to surface disturbing activities and unavailable to oil and gas leasing;

Whereas, this type of protection would extend to almost one million acres of public land in addition to nearly two million acres of existing wilderness study areas;

Whereas, a lawsuit has been filed challenging the legality of the BLM's December 19, 2008, sale of oil and gas leases;

Whereas, the state has been granted permission by the Court to defend its interests in the lawsuit by participating as an intervenor;

Whereas, on February 4, 2008, the United States Department of the Interior rejected the bids offered on 77 of the oil and gas leases presented at the December lease sale; and

Whereas, the lawsuit and the oil and gas lease rejections strike at the heart of a careful, deliberative, lengthy public process to develop resource management plans that would benefit Utahns and the citizens of the United States: Now, therefore, be it

Resolved, That the Legislature of the state of Utah, the Governor concurring therein, express strong support for the Federal Bureau of Land Management's resource management plans developed for the Moab, Richfield, Price, Vernal, Monticello, and Kanab, Utah Field Offices, and most particularly for the lengthy, thoughtful, and public process used to develop the plans; be it further

Resolved, That the Legislature and the Governor oppose current actions taken that may contest and delay implementation of the resource management plans; be it further

Resolved, That the Legislature and the Governor request that the Department of the Interior expedite a review of the 77 bid-rejected parcels to determine which may be offered for leasing in the near future; be it further

Resolved, That a copy of this resolution be sent to the United States Department of the Interior, the Federal Bureau of Land Management and its Utah office, the Southern Utah Wilderness Alliance, the Uintah, Duchesne, Grand, Emery, San Juan Sevier, Garfield, Kane, Wayne, Piute, and Carbon County Commissions, the Moab, Richfield, Price, Vernal, Monticello, and Kanab City Councils, the Utah Public Lands Policy Coordination Office, and to the members of Utah's congressional delegation.

POM–30. A joint resolution adopted by the Legislature of the State of Utah supporting the establishment of an Alternative Energy Training Center in Beaver County, Utah; to the Committee on Energy and Natural Resources.

SENATE JOINT RESOLUTION NO. 10

Whereas, the United States relies heavily on foreign sources of energy;

Whereas, to sustain economic growth in the state and throughout the nation, it will be necessary to invest resources in all forms of power generation, including traditional sources such as coal, natural gas, and nuclear as well as renewable resources such as geothermal, wind, and solar;

Whereas, the Utah Renewable Energy Zones Task Force Phase I Report indicates that theoretical potential resources within Utah include 16,500 fifty megawatt solar renewable energy zones, 51 wind renewable energy zones with a combined generating capacity of approximately 9,145 megawatts, and a total of 2,166 megawatts of geothermal development potential, the bulk of which is located in rural Utah;

Whereas, with the Blundell Geothermal Plant, the newly commissioned Thermo Hot Springs Plant, and the more than 200 megawatt First Wind Project which is currently being developed, Beaver County has either under construction or in production close to 300 megawatts of renewable resource generating capacity, and many of the state's most significant undeveloped resources converge in Beaver County;

Whereas, as renewable generation becomes more widespread in the region, there will be a need to provide training opportunities to people working in that industry;

Whereas, the Milford High School Technology Department has played a key role in attracting investment in renewable energy generation to the Southwest region of the state and has led the way in preparing young people for promising careers in that industry;

Whereas, the Southwest Applied Technology College in Cedar City is offering classes related to renewable energy in Milford;

Whereas, Milford is an ideal site for a certified renewable energy training center because it has a core of leaders who are willing to make the region the center of renewable energy generation in the state and are prepared to meet any energy goal the state sets;

Whereas, as resource development expands, production of the components of solar generation, wind turbines, and similar equipment also provides opportunities for new and expanded manufacturing businesses in rural Utah where economic development is desperately needed and will increase the need for trained workers;

Whereas, the construction of utility scale renewable energy projects provides unprecedented economic development opportunities for counties lacking traditional energy producing resources; and

Whereas, providing a training center in Utah for renewable energy resource technologies and jobs will enable Utahns to better compete for these new energy resource jobs: Now, therefore, be it

Resolved, That the Legislature of the state of Utah expresses its support for the development and certification of an Alternative Energy Training Center in Beaver County; be it further

Resolved, That a copy of this resolution be sent to the Beaver County Commission, the Milford High School Technology Department, Utah's Energy Advisor, the State Energy Program, the Southwest Applied Technology College, Rocky Mountain Power, First Wind, Raser Technologies, and to the members of Utah's congressional delegation.

POM–31. A joint resolution adopted by the Legislature of the State of Utah supporting new nuclear power development in Utah; to the Committee on Energy and Natural Resources.

SENATE JOINT RESOLUTION NO. 16

Whereas, Utah and the surrounding western states have experienced increased new electricity demands and have forecasted continued increases over the next several decades;

Whereas, Utah requires affordable and abundant energy for homes and businesses to maintain and grow its economy;

Whereas, Utah and the surrounding areas will likely suffer significant financial difficulties without new reliable and affordable electric generating resources being built, adding to and prolonging the depressed economy;

Whereas, Utah enjoys and continues to rely on cost effective coal fired power plants for 85% of its electric generation;

Whereas, Utah's ability to build any new significant coal fired power plants is limited;

Whereas, new emission controls, carbon capture technology, carbon sequestration, and advance coal combustion technologies should be encouraged, but are not projected to be commercially feasible and cost effective for at least 25 years;

Whereas, new natural gas electric generation could increase the volatility of retail electric prices and retail natural gas prices;

Whereas, hydro power resources are constrained and not expected to expand in capacity;

Whereas, nationwide nuclear power provides low cost, long term, stable retail and wholesale pricing for customers;

Whereas, the United States Congress and the United States Nuclear Regulatory Commission worked together to improve the old process for licensing new nuclear power plants;

Whereas, the new nuclear power plant licensing process presently includes a ''one step'' Combined Operating License (COL) procedure, which combines construction and operating license applications and reviews into a single process;

Whereas, the new licensing process is more efficient, predictable, and reliable;

Whereas, three Early Site Permits for new nuclear plants, one of the new licensing processes now in place, have been issued with little or no delays from adjudication;

Whereas, the estimated time frame to complete a new nuclear COL is five years;

Whereas, the development of nuclear power plants will provide significant economic benefits to the local, regional, and state populations in the form of many high paying jobs and additional tax revenues;

Whereas, the construction of a new nuclear facility would inject billion of dollars into Utah's economy in the form of 3,500 construction jobs during a two unit construction period spanning up to seven years;

Whereas, one proposed site in Utah would contribute over $2 million in 2009 to the State Institutional Trust Lands Fund;

Whereas, operations of two new generation units would provide approximately 800 jobs for highly skilled workers over the plant's 60 year projected lifetime;

Whereas, the needed regulatory and legal framework to deploy safe, secure, and cost competitive nuclear power in Utah is in place;

Whereas, Utah already has a nuclear reactor at the University of Utah;

Whereas, the University of Utah Training Research and Isotope Production, General Atomics research reactor in Salt Lake City has been operating safely since 1975;

Whereas, the United States' nuclear industry has accumulated almost 3,400 reactor years of operation since the first plant started up in 1957 without serious injury or death to a single member of the public;

Whereas, the current practice of storing spent fuel in wet or dry storage containers at a nuclear power plant has been proven safe since commercial nuclear power began in 1957;

Whereas, 95% of the energy from a nuclear reactor's spent fuel has significant value and can be reprocessed or recycled for use as fuel in the future when this option is commercialized in the United States;

Whereas, spent fuel from a nuclear reactor is valuable;

Whereas, France, Japan, Russia, the United Kingdom, and Germany currently recycle or reprocess spent fuel successfully; and

Whereas, there is no scientific or safety rationale requiring the near term movement of spent fuel from the power plants where it is generated, and fuel can be safely and securely stored on site for up to 100 years without environmental impacts:, Now, therefore, be it

Resolved, That the Legislature of the state of Utah urges that new nuclear power development be pursued within the boundaries of the state; be it further

Resolved, That the Legislature urges that commercial development of new nuclear power be pursued in the state due to its beneficial impact on the economy, fuel diversification, and the environment, and its impressive operational safety and security record, in particular the fact that no member of the public has been seriously injured by operation of the 104 nuclear power plants currently operating in the United States; be it further

Resolved, That the Legislature declares that nuclear power has been shown to be a

viable cost effective option, that current rate payer protection laws and regulations are sufficient, and that no new legislation or special action is needed for the Public Service Commission to recognize nuclear power as a prudent investment; be it further

Resolved, That the Legislature recognizes that no appropriations are needed for special committees or programs to determine whether a nuclear power plant can be built in Utah because the United States Nuclear Regulatory Commission will review and adjudicate the licensing, as needed, and nuclear developers will pay for those costs; be it further

Resolved, That the Legislature encourages investor-owned and municipally owned utilities and power marketers and traders to consider participating in a nuclear power project in Utah; be it further

Resolved, That the Legislature recognizes commercial nuclear power plants as market-based, commercially competitive enterprises due to their safety and security record, the science and performance data, and the economic performance of the present power plants; be it further

Resolved, That a copy of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the United States Secretary of Energy, Governor Huntsman, and to the members of Utah's congressional delegation.

POM–32. A resolution adopted by the Senate of the Legislature of the State of Utah urging Congress and the Bureau of Reclamation to support development of the Narrows Water Project in Central Utah; to the Committee on Energy and Natural Resources.

Whereas, water is fundamental to the economic base of Central Utah communities, and reliable water storage is necessary for both agricultural and municipal development;

Whereas, agricultural and municipal interests in Central Utah, including Sanpete County, suffer substantial economic hardship because of the lack of water storage facilities;

Whereas, in the early 1900s, local, state, and federal government officials acknowledged the need for water storage in Sanpete County and began efforts to develop the Narrows Water Project;

Whereas, reliable studies by multiple expert water engineering firms have determined the Narrows Water Project to be the least expensive, most cost-effective, and most environmentally sound means of storing water for Sanpete County;

Whereas, various studies, including a recent independent study by Utah State University, show Sanpete County to be among Utah's most effective users of modern conservation methods to conserve the water that is presently available to the county;

Whereas, the Bureau of Reclamation recognized the need for water storage in Sanpete County, and as early as the 1930s proposed a plan that would provide water storage for both Sanpete and Carbon Counties;

Whereas, the component of the Bureau of Reclamation's plan that would provide water storage for Sanpete County was never implemented, initially due to a disruption caused by World War II, and more recently by various questions regarding ownership of the water;

Whereas, numerous judicial decisions have now clearly established and defined the water rights involved in the Narrows Water Project;

Whereas, legal agreements between Sanpete County, Carbon County, the state of Utah, and various federal entities have recognized Carbon and Sanpete Counties' water rights from Gooseberry Creek; and

Whereas, the residents of Sanpete County, at great financial sacrifice, have waited for almost a century for the Narrows Water Project water storage facility that was promised to them: Now, therefore, be it

Resolved, That the Senate of the state of Utah expresses support for the Narrows Water Project in Central Utah; be it further

Resolved, That the Senate urges Congress and the United States Bureau of Reclamation to support the development of the Narrows Water Project in Central Utah; be it further

Resolved, That a copy of this resolution be sent to the Bureau of Reclamation and to Utah's congressional delegation.

POM–33. A joint resolution adopted by the Legislature of the State of Utah supporting producing hydrogen from coal with carbon capture and sequestration (CCS) technology; to the Committee on Energy and Natural Resources.

HOUSE JOINT RESOLUTION NO. 12

Whereas, coal is one of Utah's most abundant resources and contributes substantially to Utah's economy;

Whereas, coal is an affordable base load fuel providing reliable electric power;

Whereas, demonstration of advanced coal technology for power generation can accelerate the development of the hydrogen energy economy in Utah;

Whereas, producing hydrogen from coal with carbon capture and sequestration (CCS) for newly permitted developments is one possible technology, among many, that has the potential to reduce carbon emissions and help protect and grow Utah's economy while continuing a strong commitment to a clean environment;

Whereas, advanced hydrogen from coal technology and CCS technology as proposed for potential next generation power plants in Utah would produce fewer carbon emissions than conventionally fueled power plants;

Whereas, the new advanced coal technology gasifies coal to produce a mixture of carbon dioxide, hydrogen, and other gases;

Whereas, the clean burning hydrogen can be used to fuel a power plant and the carbon dioxide can be captured and stored using geologic sequestration technology;

Whereas, CCS technology provides for the removal of carbon dioxide from fuel gases, reducing emission into the atmosphere;

Whereas, CCS technology will be crucial to reducing emission of carbon dioxide from newly permitted power plants specifically designed to use CCS technology while still meeting growing energy demand in a responsible manner with domestic fuel;

Whereas, CCS technology can be important to maintain Utah's position as a leader in energy technology and production;

Whereas, CCS technology will enable Utah to use its abundant coal resources while still meeting potential new regulations limiting carbon emissions and protecting and creating high-paying jobs in Utah;

Whereas, Utah's geological characteristics support sequestration technology;

Whereas, Utah is uniquely positioned to potentially lead and benefit from hydrogen production from coal and CCS technology;

Whereas, Utah's support of producing hydrogen from coal and CCS technology could place Utah businesses at the forefront of the new hydrogen and carbon economies;

Whereas, the state welcomes the potential jobs, tax base, economic enhancements and leadership position that could come with supporting advanced coal technology with CCS;

Whereas, the Public Service Commission should consider authorizing the recovery of cost-effective and prudently incurred costs that reduce carbon emissions;

Whereas, the Public Service Commission should consider hydrogen production from coal and CCS technology to be a reasonable investment for protecting the long-term interests of Utah's utility rate payers;

Whereas, the Legislature supports approving cost recovery of cost-effective and prudent investment in these technologies as determined by the Public Service Commission; and

Whereas, the Legislature supports resolving liability issues stemming from future adverse effects of sequestered carbon and believes the federal government is in the best position to provide a comprehensive liability solution: Now, therefore, be it

Resolved, That the Legislature of the state of Utah expresses support for producing hydrogen production from coal with carbon capture and sequestration (CCS) technology as a means of strengthening Utah's economy and helping Utah to stand at the forefront of energy production; be it further

Resolved, That the Legislature urges the Public Service Commission to consider authorizing recovery of cost-effective and prudently incurred costs that reduce carbon emissions and increase Utah's and the nation's energy security; be it further

Resolved, That the Legislature recommends that the Public Service Commission consider hydrogen production from coal and CCS technology to be a reasonable investment for protecting the long-term interests of Utah's utility rate payers; be it further

Resolved, That the Legislature supports approving cost recovery of cost-effective and prudent investment in these technologies as determined by the Public Service Commission; be it further

Resolved, That the Legislature supports balanced consideration and research to explore all technologies that will continue to maximize future use and availability of coal and gas in an environmentally sound manner; be it further

Resolved, That a copy of this resolution be sent to Utah's Energy Advisor, the State Energy Program, the Public Service Commission, and to the members of Utah's congressional delegation.

POM–34. A resolution adopted by the House of Representatives of the State of Utah urging Congress and the Bureau of Reclamation to support development of the Narrows Water Project in Central Utah; to the Committee on Energy and Natural Resources.

HOUSE RESOLUTION NO. 1

Whereas, water is fundamental to the economic base of Central Utah communities and reliable water storage is necessary for both agricultural and municipal development;

Whereas, agricultural and municipal interests in Central Utah, including Sanpete County, suffer substantial economic hardship because of the lack of water storage facilities;

Whereas, in the early 1900s, local, state, and federal government officials acknowledged the need for water storage in Sanpete County and began efforts to develop the Narrows Water Project;

Whereas, reliable studies by multiple expert water engineering firms have determined the Narrows Water Project to be the least expensive, most cost effective, and most environmentally sound means of storing water for Sanpete County;

Whereas, various studies, including a recent independent study by Utah State University, show Sanpete County to be among Utah's most effective users of modern conservation methods to conserve the water that is presently available to the county;

Whereas, the Bureau of Reclamation recognized the need for water storage in Sanpete County, and as early as the 1930s proposed a plan that would provide water storage for both Sanpete and Carbon Counties;

Whereas, the component of the Bureau of Reclamation's plan that would provide water storage for Sanpete County was never implemented, initially due to a disruption caused by World War II, and more recently by various questions regarding ownership of the water;

Whereas, numerous judicial decisions have now clearly established and defined water rights involved in the Narrows Water Project;

Whereas, legal agreements between Sanpete County, Carbon County, the state of Utah, and various federal entities have recognized Carbon and Sanpete County's water rights from Gooseberry Creek; and

Whereas, the residents of Sanpete County, at great financial sacrifice, have waited for almost a century for the Narrows Water Project water storage facility that was promised to them: Now, therefore, be it

Resolved, That the House of Representatives of the state of Utah expresses support for the Narrows Water Project in Central Utah; be it further

Resolved, That the House of Representatives urges Congress and the United States Bureau of Reclamation to support the development of the Narrows Water Project in Central Utah; be it further

Resolved, That a copy of this resolution be sent to the Bureau of Reclamation and to Utah's congressional delegation.

POM–35. A joint resolution adopted by the Legislature of the State of Utah urging Congress to preserve the exemption for hydraulic fracturing in the Safe Drinking Water Act and to refrain from passing legislation that would remove the hydraulic fracturing exemption; to the Committee on Environment and Public Works.

SENATE JOINT RESOLUTION NO. 17

Whereas, the United States Congress passed the Safe Drinking Water Act (Act) to assure the protection of the nation's drinking water sources;

Whereas, since the enactment of the Act, the Environmental Protection Agency (EPA) has never interpreted hydraulic fracturing as constituting ''underground injection'' within the Act;

Whereas, in 2004, the EPA published a final report summarizing a study to evaluate the potential threat to underground sources of drinking water from hydraulic fracturing of coal bed methane production wells and the EPA concluded that ''additional or further study is not warranted at this time . . .'' and ''that the injection of hydraulic fracturing fluids into coal bed methane wells poses minimal threat'' to underground sources of drinking water;

Whereas, in the Energy Policy Act of 2005, the United States Congress explicitly exempted hydraulic fracturing from the provisions of the Act;

Whereas, the Interstate Oil and Gas Compact Commission (IOGCC) conducted a survey of oil and gas producing states which found that there were no known cases of groundwater contamination associated with hydraulic fracturing;

Whereas, hydraulic fracturing is currently, and has been for decades, a common operation used in exploration and production by the oil and gas industry in all the member states of the IOGCC without groundwater damage;

Whereas, approximately 35,000 wells are hydraulically fractured in the United States annually, and close to 1,000,000 wells have been hydraulically fractured in the United States since the technique's inception, with no known harm to groundwater;

Whereas, the regulation of oil and gas exploration and production activities, including hydraulic fracturing, has traditionally been the province of the states;

Whereas, the Act was never intended to grant to the federal government authority to regulate oil and gas drilling and production operations, such as ''hydraulic fracturing,'' under the Underground Injection Control program;

Whereas, the member states of the IOGCC have adopted comprehensive laws and regulations to provide safe operations and to protect the nation's drinking water sources, and have trained personnel to effectively regulate oil and gas exploration and production;

Whereas, production of coal seam natural gas, natural gas from shale formations, and natural gas from tight conventional reservoirs is increasingly important to our domestic natural gas supply and will be even more important in the future;

Whereas, domestic production of natural gas will ensure that the United States continues on the path to energy independence;

Whereas, hydraulic fracturing plays a major role in the development of virtually all unconventional oil and gas resources and, in the absence of any evidence that such fracturing has damaged the environment, should not be limited;

Whereas, regulation of hydraulic fracturing as underground injection under the Act would impose significant administrative costs on the state and substantially increase the cost of drilling oil and gas wells with no resulting environmental benefits; and

Whereas, regulation of hydraulic fracturing as underground injection under the Act would increase energy costs to the consumer: Now, therefore, be it

Resolved, That the Legislature of the state of Utah expresses support for maintaining the exemption of hydraulic fracturing in the Safe Drinking Water Act and urges the United States Congress to refrain from passing legislation that would remove the exemption for hydraulic fracturing; be it further

Resolved, That a copy of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and to the members of Utah's congressional delegation.

POM–36. A concurrent resolution adopted by the Legislature of the State of Utah urging the Environmental Protection Agency to address the problems associated with its configuration of nonattainment areas relating to Utah; to the Committee on Environment and Public Works.

HOUSE CONCURRENT RESOLUTION NO. 5

Whereas, on December 23, 2008, the U.S. Environmental Protection Agency (EPA) published county nonattainment designations for the federal air quality standard (NAAQS) for the fine particulate known as PM2.5;

Whereas, the EPA designated a total of three PM2.5 nonattainment areas within the state;

Whereas, the first area is Utah County; the second area is Salt Lake, Davis, and Weber Counties and portions of Box Elder and Tooele Counties; and the third area is Cache County and Franklin County, Idaho;

Whereas, designating areas two and three as nonattainment areas is contrary to the designations originally recommended by the state;

Whereas, the state has made a strong commitment to conservation and protection of the environment, and Utahns place a high value on the state's natural resources, including clean air;

Whereas, the state is also growing both in terms of population and businesses that offer jobs to local residents;

Whereas, Utahns are concerned not only with being good stewards of their natural environment, but also fostering strong economic development;

Whereas, the state recommendation for designation for certain counties as nonattainment for PM2.5 will lead to an accurate, timely, and fair resolution of PM2.5 nonattainment issues;

Whereas, the result may create a misperception that Utah has a bigger and more wide-spread air quality problem than is actually true;

Whereas, the current nonattainment area designations made by the EPA have created several problems that must be rectified as soon as possible;

Whereas, one of the PM2.5 nonattainment areas designated by the EPA includes all or a portion of five counties, and these overly broad designations should be pared back;

Whereas, the EPA should not designate areas as nonattainment until it has actual monitoring data justifying such a designation;

Whereas, in the case of Box Elder and Tooele Counties, it is clear that the designations include areas that have pristine air quality and do not exceed the NAAQS;

Whereas, for example, the portion of Tooele County designated ''nonattainment'' by the EPA includes the Deseret Peak Wilderness Area within the Stansbury Mountain Range;

Whereas, air quality in this wilderness area is widely known to be excellent, particularly in and around the pristine areas of the 11,000 foot Deseret Peak;

Whereas, there is no reason for the EPA to create a nonattainment area in a national wilderness area;

Whereas, one of the PM2.5 nonattainment areas designated by the EPA includes both Cache County in Utah and Franklin County in Idaho, creating a single nonattainment area with jurisdiction under agencies of two different states, and the EPA further creates a nonattainment area under the jurisdiction of two different EPA regions, Region 8 and Region 10; and

Whereas, interstate designations should be eliminated and the EPA should either divide the designation into two nonattainment areas or agree that Cache County can be redesignated attainment for PM2.5 on its own, with oversight solely by EPA Region 8, if monitoring data shows that the NAAQS has not been exceeded: Now, therefore be it

Resolved, That the Legislature of the state of Utah, the Governor concurring therein, urge the EPA to adopt the recommendation for PM2.5 designation as proposed by the state of Utah; be it further

Resolved, That a copy of this resolution be sent to the United States Environmental Protection Agency, the members of Utah's congressional delegation, and to the Utah Department of Environmental Quality.

POM–37. A concurrent resolution adopted by the Legislature of the State of Utah expressing strong opposition to any federal legislation that would expand the reach and scope of the Clean Water Act; to the Committee on Environment and Public Works.

HOUSE CONCURRENT RESOLUTION NO. 6

Whereas, over the past 35 years, the federal Clean Water Act, supported by other federal, state, and local laws, has governed the nation's waters and has helped ensure that Americans enjoy the cleanest rivers and lakes in the world;

Whereas, this landmark statute, further explained and clarified by subsequent Supreme Court cases, has struck a proper balance between clean water and state, local, and federal regulatory authority and responsibilities, while at the same time recognizing and protecting state primacy over water jurisdiction;

Whereas, the proposed Clean Water Restoration Act of 2007, H.R. 2421 and S. 1870, and similar legislation, attempts to make extreme changes to the Clean Water Act and threatens to destroy the careful inter-governmental balance that has been the hallmark of the law throughout its long history;

Whereas, the proposed federal legislation would change federal jurisdiction over water by expanding the definition from ''navigable'' to ''waters of the United States'' over which federal jurisdiction extends;

Whereas, that language change would allow federal reach to explicitly include ''all interstate and intrastate waters and their tributaries . . .'', essentially establishing under federal law that all wet areas within a state, or areas that have been wet at some time, would fall under federal regulatory authority, including groundwater, ditches, pipes, streets, gutters, desert features, and even pools and puddles;

Whereas, this legislation would give the United States Environmental Protection Agency (EPA) and the United States Army Corps of Engineers (Corps) authority over ''all interstate and intrastate waters,'' including non-navigable waters, thereby granting to Congress authority far beyond the original scope of the Clean Water Act;

Whereas, this legislation patently exceeds Congress's constitutional powers, as ''non-navigable'' waters are unlikely to fall under the Commerce Clause, the principle-enumerated power upon which Congress has relied for passage of environmental laws;

Whereas, this legislation would dramatically expand the reach of the federal bureaucracy, would fundamentally erode the ability of state and local governments to manage their own water resources, and would cause an avalanche of new unfunded mandates to envelope state and local governments;

Whereas, this legislation would essentially grant the EPA and the Corps veto authority over local land use policies, and would grant the EPA and the Corps authority to regulate virtually all activities, private or public, that may affect ''waters of the United States,'' regardless of whether the activity is occurring in, or may impact, water at all;

Whereas, this legislation would eliminate existing regulatory limitations that allow common sense uses, including prior converted cropland and waste treatment systems, since the proposed definition does not include any regulatory limitations;

Whereas, this omission is particularly important because the existing rules acknowledge two important limitations covering prior converted cropland and waste treatment systems designed to meet Clean Water Act requirements;

Whereas, this legislation's expanded definition would burden state and local governments administratively and financially and would thrust unfunded mandates on state and local governments by imposing significant new administrative responsibilities upon them;

Whereas, this legislation would require changes at the state level by impacting comprehensive land use plans, floodplain regulations, building and special codes, and watershed and storm water plans;

Whereas, local governments will also be impacted because they are responsible for a number of public infrastructure projects, including water supply, solid waste disposal, road and drainage channel maintenance, storm water detention, mosquito control, and construction projects; and

Whereas, local government efforts to carry out maintenance of government-owned buildings, including hospitals, schools, and municipal offices, could also be adversely impacted: Now, therefore, be it

Resolved, That the Legislature of the state of Utah, the Governor concurring therein, express its strong opposition to any federal legislation that would expand the reach and scope of the Clean Water Act, and express their commitment to the goals and objectives of the original Act to keep our waters clean; be it further

Resolved, That the Legislature and the Governor assert that it is not in the nation's interest to regulate ditches, culverts and pipes, desert washes, dry arroyos, farmland, and treatment ponds as ''waters of the United States'' and therefore subjecting these waters to all of the requirements of federal regulation; be it further

Resolved, That the Legislature and the Governor call upon Congress to preserve the traditional power of states over land and water use and avoid unnecessary alterations to the regulatory reach of the Clean Water Act amendments as proposed in the Clean Water Restoration Act of 2007 and similar federal legislation; be it further

Resolved, That the Legislature and the Governor express their opposition to enacting the Clean Water Restoration Act of 2007 as proposed, as being without merit or justification based on 35 years of experience under the original Act as modified by court decisions and practice; be it further

Resolved, That a copy of this resolution be sent to the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and to the members of Utah's congressional delegation.

POM–38. A joint resolution adopted by the Legislature of the State of Utah supporting the withdrawal of the United States' World Trade Organization commitments on gambling; to the Committee on Finance.

HOUSE JOINT RESOLUTION NO. 1

Whereas, the World Trade Organization (WTO) Dispute Resolution Body found the United States to have made a commitment under the General Agreement on Trade in Services (GATS) in the category of ''Other Recreational Services'' that covered gambling services;

Whereas, the Appellate Body of the WTO acknowledged the importance of ''public morals'' concerns in this WTO dispute and the legitimacy of the United States ''public morals'' defense in this case;

Whereas, states have considerable authority to regulate and prohibit various forms of gambling;

Whereas, a number of states communicated with the Office of the United States Trade Representative (USTR) to express their concern about the WTO decision and its implications for public morals and for state regulation of gambling;

Whereas, the USTR took steps last year to rescind the United States' commitment in ''Other Recreational Services,'' consistent with the wishes of states as expressed through letters and direct communications to USTR, as well as the wishes of Congress as exemplified by the Unlawful Internet Gambling Enforcement Act;

Whereas, in withdrawing this commitment, the United States had to offer compensatory adjustments in its overall schedule of GATS commitments, providing market access opportunities to United States' trading partners in other sectors;

Whereas, the United States has signed Free Trade Agreements with a number of nations that are home to major on-line gambling operations;

Whereas, the London-based Remote Gambling Association has already filed a complaint with the European Union asking that Europe bring a new WTO claim against the United States on gambling; and

Whereas, the Utah Legislature created the Utah International Trade Commission in 2006 as a legislative commission to address international trade issues: Now, therefore, be it

Resolved, That the Legislature of the state of Utah expresses its gratitude to the USTR for its forthright position in the WTO gambling commitments dispute, and its willingness to withdraw the United States' commitment under ''Other Recreational Services'' once it was determined that this commitment covered gambling; be it further

Resolved, That the Legislature of the state of Utah recognizes that this action reflects the increasing responsiveness of the USTR in addressing the legitimate regulatory concerns of states in light of international trade commitments undertaken by the federal government; be it further

Resolved, That the Legislature of the state of Utah expresses its concern that the terms of the agreement whereby the United States withdrew the commitment under ''Other Recreational Services'' were withheld from members of Congress, the Intergovernmental Policy Advisory Committee (IGPAC), and state oversight commissions on international trade; be it further

Resolved, That the Legislature of the state of Utah expresses its concern that the USTR's recent actions are an effort to bypass Congress and IGPAC by proposing a solution outside of the constitutional United States Senate treaty ratification process; be it further

Resolved, That the Legislature of the state of Utah expresses its concern that United States' trading partners may attempt to bring further claims against federal and state gambling laws under trade and investment agreements that lack the ''public morals'' exception found in the WTO GATS; be it further

Resolved, That a copy of this resolution be sent to the WTO, USTR, Utah Congressional delegation, and members of the U.S. Senate Finance and House Ways and Means Committees.

POM–39. A concurrent resolution adopted by the Legislature of the State of Utah urging Congress to grant the state of Utah waivers to establish an employer-sponsored work program and other strategies to address illegal immigration in the state; to the Committee on Finance.

SENATE CONCURRENT RESOLUTION NO. 1

Whereas, illegal immigration is an increasing concern in many states, including the state of Utah;

Whereas, recent attempts by Congress to make major reforms in immigration law have stalled;

Whereas, without definitive direction from the federal government, states are struggling to adequately address the many issues surrounding illegal immigration within their respective borders;

Whereas, there is an increasing need for state and local governments to address problems associated with illegal immigration, most particularly in the area of job employment;

Whereas, federal waivers would greatly increase the state of Utah's capacity to address current illegal immigration challenges;

Whereas, a federal waiver would be required for Utah to institute an employer-sponsored work program providing a two-year, renewable guest worker authorization for foreign workers;

Whereas, a second waiver is needed to withhold FICA and Medicare revenue and apply it toward the costs of the program;

Whereas, the proposed employer-sponsored work program will allow for Utah to deal with its current undocumented population in a fair manner;

Whereas, the employer-sponsored work program would also address Utah's need for both unskilled and skilled laborers while ensuring that all available local workers are given ample opportunity to meet that need;

Whereas, if granted a waiver, Utah's employer-sponsored work program should require that potential workers register as a worker with the state, be fingerprinted, have their names processed through the Interagency Border Inspection Name Check System, pass a medical exam, be sponsored by their employer, have health and automobile insurance, and have funds withheld by their employer to cover health insurance and the administrative costs of the work program;

Whereas, through the granting of federal waivers allowing the state to provide the employer-sponsored work program, the state of Utah can address many challenges regarding illegal immigration issues its citizens currently face; and

Whereas, the employer-sponsored work program combines opportunity with enforcement in a responsible manner: Now, therefore, be it

Resolved, That the Legislature of the state of Utah, the Governor concurring therein, urge the United States Congress to grant the state of Utah waivers to implement an employer-sponsored work program, and to withhold federal FICA and Medicare revenue and apply it toward the health insurance and other administrative costs of the program; be it further

Resolved, That a copy of this resolution be sent to the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, United States Immigration and Customs Enforcement, United States Department of Homeland Security, the President of the United States, the members of Utah's Congressional Delegation, the Utah Labor Commission, and the Utah Department of Workforce Services.

POM–40. A resolution adopted by the Senate of the Legislature of the State of Utah urging the Government of Turkey to grant the Ecumenical Patriarch international recognition and to respect the property rights and human rights of the Ecumenical Patriarchate; to the Committee on Foreign Relations.

SENATE RESOLUTION NO. 1

Whereas, the Ecumenical Patriarchate, located in Istanbul, Turkey, is the Sacred See that presides in a spirit of brotherhood over a communion of self-governing churches of the Orthodox Christian world;

Whereas, the See is led by Ecumenical Patriarch Bartholomew, who is the 269th in direct succession to the Apostle Andrew and holds titular primacy as primus inter pares, meaning ''first among equals,'' in the community of Orthodox churches worldwide;

Whereas, in 1994, Ecumenical Patriarch Bartholomew, along with leaders of the Appeal of Conscience Foundation, cosponsored the Conference on Peace and Tolerance, which brought together Christian, Jewish, and Muslim religious leaders for an interfaith dialogue to help end the Balkan conflict and the ethnic conflict in the Caucasus region;

Whereas, in 1997, the United States Congress awarded Ecumenical Patriarch Bartholomew the Congressional Gold Medal;

Whereas, following the terrorist attacks on our nation on September 11, 2001, Ecumenical Patriarch Bartholomew gathered a group of international religious leaders to produce the first joint statement with Muslim leaders that condemned the attacks as ''antireligious'';

Whereas, in October 2005, the Ecumenical Patriarch, along with Christian, Jewish, and Muslim leaders, cosponsored the Conference on Peace and Tolerance II to further promote peace and stability in southeastern Europe, the Caucasus region, and Central Asia via religious leaders' interfaith dialogue, understanding, and action;

Whereas, the Orthodox Christian Church, in existence for nearly 2,000 years, numbers approximately 300 million members worldwide with more than 2 million members in the United States;

Whereas, since 1453, the continuing presence of the Ecumenical Patriarchate in Turkey has been a living testament to the religious coexistence of Christians and Muslims;

Whereas, this religious coexistence is in jeopardy because the Ecumenical Patriarchate is considered a minority religion by the Turkish government;

Whereas, the Government of Turkey has limited the candidates available to hold the office of Ecumenical Patriarch to only Turkish nationals;

Whereas, from the millions of Orthodox Christians living in Turkey at the turn of the 20th century and due to the continued policies during this period by the Turkish government, there remain less than 3,000 of the Ecumenical Patriarch's flock left in Turkey today;

Whereas, the Government of Turkey closed the Theological School on the island of Halki in 1971 and has refused to allow it to reopen, thus impeding training for Orthodox Christian clergy;

Whereas, the Turkish government has confiscated nearly 94% of the Ecumenical Patriarchate's properties and has placed a 42% tax, retroactive to 1999, on the Baloukli Hospital and Home for the Aged, a charity hospital run by the Ecumenical Patriarchate;

Whereas, the European Union, a group of nations with a common goal of promoting peace and the well-being of its peoples, began accession negotiations with Turkey on October 3, 2005;

Whereas, the European. Union defined membership criteria for accession at Copenhagen European Council in 1993, obligating candidate countries to achieve certain levels of reform, including stability of institutions guaranteeing democracy, adherence to the rule of law, and respect for and protection of minorities and human rights;

Whereas, the Turkish government's current treatment of the Ecumenical Patriarchate is inconsistent with the membership conditions and goals of the European Union;

Whereas, Orthodox Christians in Utah and throughout the United States stand to lose their spiritual leader because of the continued actions of the Turkish government; and

Whereas, the Archons of the Ecumenical Patriarchate of the Order of St. Andrew the Apostle, a group of laymen who each have been honored with a patriarchal title, or ''offikion,'' by the Ecumenical Patriarch for their outstanding service to the Orthodox Church, will send an American delegation to Turkey to meet with Turkish government officials, as well as the United States Ambassador to the Republic of Turkey, regarding the Turkish government's treatment of the Ecumenical Patriarchate: Now, therefore, be it

Resolved, That the Senate of the state of Utah urges the Government of Turkey to uphold and safeguard religious and human rights without compromise and cease its discrimination of the Ecumenical Patriarchate; be it further

Resolved, That the Senate of the state of Utah urges the Government of Turkey to grant the Ecumenical Patriarch appropriate international recognition, ecclesiastic succession, and the right to train clergy of all nationalities, and to respect the property rights and human rights of the Ecumenical Patriarchate; be it further

Resolved, That a copy of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the United States Ambassador to the Republic of Turkey, and to the members of Utah's congressional delegation.

POM–41. A joint resolution adopted by the Legislature of the State of Utah urging the Obama Administration to support the efforts of the Republic of China (Taiwan) to meaningfully participate in the specialized agencies of the United Nations; to the Committee on Foreign Relations.

SENATE JOINT RESOLUTION NO. 5

Whereas, the mission of the United Nations, as stated in the preamble to the United Nations Charter, is to ''reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small'';

Whereas, similarly, Article 2 of the Universal Declaration of Human Rights states, ''Everyone is entitled to all the rights and freedoms . . ., without distinction of any kind . . . no distinction shall be made on the basis of political, jurisdictional or international status of the country or territory to which a person belongs . . .'';

Whereas, the global issues addressed by the specialized agencies of the United Nations are closely connected to the well-being of all mankind;

Whereas, as Taiwan cannot attend the conferences, mechanisms, and activities of the specialized agencies, the welfare of its people, as well as the interests of all humankind, have been seriously jeopardized;

Whereas, Taiwan has been campaigning for participation in the World Health Organization (WHO) for years, but has been unable to establish direct access to and communication with the WHO regarding disease prevention;

Whereas, Taiwan is restricted from attending WHO technical conferences and activities and as a result Taiwan can neither acquire the latest medical and health updates nor receive timely assistance when epidemics occur, as was the case with the SARS outbreak;

Whereas, as early as May 2006, Taiwan announced its decision to comply voluntarily with the International Health Regulations (IHR 2005) that went into effect June 15, 2007;

Whereas, although Taiwan has repeatedly submitted updates to the WHO about various diseases, the WHO has not responded;

Whereas, this has been detrimental to the health rights of the 23 million people of Taiwan and foreigners residing in and traveling to Taiwan;

Whereas, it also creates a weakness in the global epidemic surveillance network which can harm the international community;

Whereas, being the world's 18th largest economy and the 20th largest outbound investor, Taiwan possesses significant economic strength;

Whereas, Taiwan hopes to share its development experience with many developing nations;

Whereas, Taiwan is also willing to give back to the world through humanitarian assistance and technical cooperation;

Whereas, the issues that the specialized agencies of the United Nations system handle tend to be functional and technical in nature; and

Whereas, allowing Taiwan's participation with these specialized agencies would be helpful for the two sides of the Taiwan Strait to set aside differences and strengthen cooperation on issues of mutual concern, thereby gradually reducing friction and promoting stability and prosperity in the Asia-Pacific region: Now, therefore, be it

Resolved, That the Legislature of the state of Utah urges the Obama Administration to support Taiwan and its 23 million people in obtaining appropriate and meaningful participation in the specialized agencies of the United Nations system, including the World Health Organization; be it further

Resolved, That the Legislature urges that United States policy include the pursuit of an initiative in the specialized agencies of the United Nations system, such as the World Health Organization, which would give Taiwan meaningful participation in a manner that is consistent with the respective organization's requirements; be it further

Resolved, That a copy of this resolution be sent to the President of the United States, the United States Secretary of State, the Secretary of Health and Human Services, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the members of Utah's congressional delegation, the Government of Taiwan, the United Nations, and the World Health Organization.

POM–42. A resolution adopted by the House of Representatives of the State of Utah urging the Government of Turkey to grant the Ecumenical Patriarch international recognition and to respect the property rights and human rights of the Ecumenical Patriarchate; to the Committee on Foreign Relations.

HOUSE RESOLUTION NO. 2

Whereas, the Ecumenical Patriarchate, located in Istanbul, Turkey, is the Sacred See that presides in a spirit of brotherhood over a communion of self-governing churches of the Orthodox Christian world;

Whereas, the See is led by Ecumenical Patriarch Bartholomew, who is the 269th in direct succession to the Apostle Andrew and holds titular primacy as primus inter pares, meaning ''first among equals,'' in the community of Orthodox churches worldwide;

Whereas, in 1994, Ecumenical Patriarch Bartholomew, along with leaders of the Appeal of Conscience Foundation, cosponsored the Conference on Peace and Tolerance, which brought together Christian, Jewish, and Muslim religious leaders for an interfaith dialogue to help end the Balkan conflict and the ethnic conflict in the Caucasus region;

Whereas, in 1997, the United States Congress awarded Ecumenical Patriarch Bartholomew the Congressional Gold Medal;

Whereas, following the terrorist attacks on our nation on September 11, 2001, Ecumenical Patriarch Bartholomew gathered a group of international religious leaders to produce the first joint statement with Muslim leaders that condemned the attacks as ''antireligious'';

Whereas, in October 2005, the Ecumenical Patriarch, along with Christian, Jewish, and Muslim leaders, cosponsored the Conference on Peace and Tolerance II to further promote peace and stability in southeastern Europe, the Caucasus region, and Central Asia via religious leaders' interfaith dialogue, understanding, and action;

Whereas, the Orthodox Christian Church, in existence for nearly 2,000 years, numbers approximately 300 million members worldwide with more than 2 million members in the United States;

Whereas, since 1453, the continuing presence of the Ecumenical Patriarchate in Turkey has been a living testament to the religious coexistence of Christians and Muslims;

Whereas, this religious coexistence is in jeopardy because the Ecumenical Patriarchate is considered a minority religion by the Turkish government;

Whereas, the Government of Turkey has limited the candidates available to hold the office of Ecumenical Patriarch to only Turkish nationals;

Whereas, from the millions of Orthodox Christians living in Turkey at the turn the 20th century and due to the continued policies during this period by the Turkish government, there remain less than 3,000 of the Ecumenical Patriarch's flock left in Turkey today;

Whereas, the Government of Turkey closed the Theological School on the island of Halki in 1971 and has refused to allow it to reopen, thus impeding training for Orthodox Christian clergy;

Whereas, the Turkish government has confiscated nearly 94% of the Ecumenical Patriarchate's properties and has placed a 42% tax, retroactive to 1999, on the Baloukli Hospital and Home for the Aged, a charity run by the Ecumenical Patriarchate;

Whereas, the European Union, a group of nations with a common goal of promoting peace and the well-being of its peoples, began accession negotiations with Turkey on October 3, 2005;

Whereas, the European Union defined membership criteria for accession at the Copenhagen European Council in 1993, obligating candidate countries to achieve certain levels of reform, including stability of institutions guaranteeing democracy, adherence to the rule of law, and respect for and protection of minorities and human rights;

Whereas, the Turkish government's current treatment of the Ecumenical Patriarchate is inconsistent with the membership conditions and goals of the European Union;

Whereas, Orthodox Christians in Utah and throughout the United States stand to lose their spiritual leader because of the continued actions of the Turkish government; and

Whereas, the Archons of the Ecumenical Patriarchate of the Order of St. Andrew the Apostle, a group of laymen who each have been honored with a patriarchal title, or ''offikion,'' by the Ecumenical Patriarch for their outstanding service to the Orthodox Church, will send an American delegation to Turkey to meet with Turkish governmental officials, as well as the United States Ambassador to the Republic of Turkey, regarding the Turkish government's treatment of the Ecumenical Patriarchate: Now, therefore, be it

Resolved, That the House of Representatives of the state of Utah urges the Government of Turkey to uphold and safeguard religious and human rights without compromise and cease its discrimination of the Ecumenical Patriarchate; be it further

Resolved, That the House of Representatives of the state of Utah urges the Government of Turkey to grant the Ecumenical Patriarch appropriate international recognition, ecclesiastic succession, and the right to train clergy of all nationalities, and to respect the property rights and human rights of the Ecumenical Patriarchate; be it further

Resolved, That a copy of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the United States Ambassador to the Republic of Turkey, the Ambassador of the Republic of Turkey to the United States, and to the members of Utah's congressional delegation.

POM–43. A resolution adopted by the Legislature of the State of Utah designating September 2009 as Hydrocephalus Awareness Month, and urges the federal government to create a national registry for collecting comprehensive statistics and data regarding hydrocephalus; to the Committee on Health, Education, Labor, and Pensions.

SENATE RESOLUTION NO. 3

Whereas, hydrocephalus is a serious neurological condition characterized by the abnormal buildup of cerebrospinal fluids in the ventricles of the brain;

Whereas, there is no known cure for hydrocephalus, which affects an estimated one million Americans;

Whereas, one in every 2,700 infants are born with hydrocephalus;

Whreas, more than 375,000 older Americans have hydrocephalus, which often remains undetected or incorrectly diagnosed as dementia, Alzheimer's disease, or Parkinson's disease;

Whereas, with appropriate diagnosis and treatment, people with hydrocephalus have the opportunity to live full and productive lives;

Whereas, the standard treatment for hydrocephalus was developed in 1952 and unfortunately carries multiple risks including shunt failure, infection, and over drainage;

Whereas, each year American taxpayers spend more than $1 billion to treat hydrocephalus;

Whereas, the Hydrocephalus Association is one of the nation's oldest and largest patient and research advocacy and support networks for individuals suffering from hydrocephalus; and

Whereas, the federal government should create a registry for collecting data and statistics on the impact of hydrocephalus: Now, therefore, be it

Resolved, That the Senate of the state of Utah designates September 2009 as Hydrocephalus Awareness Month in the state of Utah; be it further

Resolved, That the Senate of the state of Utah urges the federal government to create a gyrational registry for collecting comprehensive statistics and data regarding hydrocephalus and its impact on American families; be it further

Resolved, That a copy of this resolution be sent to the Hydrocephalus Association, the United States Department of Health and Human Services, the Utah Department of Health, and to the members of Utah's congressional delegation.

POM–44. A joint resolution adopted by the Legislature of the State of Utah supporting congressional action related to the Navajo Nation's ability to collect and track child support payments; to the Committee on Indian Affairs.

HOUSE JOINT RESOLUTION NO. 5

Whereas, the Navajo Nation is the largest Native American tribe within the boundaries of the United States and is larger than ten of the 50 states;

Whereas, Navajo children under the age of 18 comprise almost half the total population, and some 61% of Navajo grandparents are responsible for grandchildren under the age of 18;

Whereas, over half the population of the Navajo Nation lives below the poverty level, an over 40% of persons on the Navajo Nation are unemployed;

Whereas, collecting child support for children whose parents are able to pay child support may be critical in the health and education of a good portion of Navajo children;

Whereas, the federal government granted the Navajo Nation and 39 other tribes the ability to collect child support, establish paternity, and enforce child and medical support obligations, but did not grant the Navajo Nation access to information essential for investigation and enforcement;

Whereas, the federal government has suggested that some states charge the Navajo Nation for access to important personal files of potential payers of child support;

Whereas, the Navajo Nation has collected almost $3,000,000 in past-due child support and received more than 10,000 acknowledgments of paternity for Navajo children; and

Whereas, the Navajo Nation department of child support enforcement has collected a total of $7,248,237 in child support during fiscal year 2007: Now, therefore, be it

Resolved, That the Legislature of the state of Utah encourage Utah's congressional delegation to take appropriate steps on behalf of the Navajo Nation to increase its effectiveness in child support collection and enforcement; be it further

Resolved, That Utah's congressional delegation is urged to encourage the federal government to include the Navajo Nation in a web access pilot program to obtain information critical to collection of child support for Navajo children; be it further

Resolved, That copies of this resolution be transmitted to:

(1) the members of Utah's congressional delegation;

(2) the president of the Navajo Nation;

(3) the speaker of the house of the Navajo Nation; and

(4) the secretary of human services for the Navajo Nation.

POM–45. A resolution adopted by the Legislature of the State of Utah opposing the REAL ID Act of 2005 and its implementation of a national identification card; to the Committee on the Judiciary.

HOUSE RESOLUTION NO. 4

Whereas, the state of Utah recognizes the Constitution of the United States as the nation's charter of liberty, and that the Bill of Rights enshrines the fundamental and inalienable rights of Americans, including privacy and freedom from unreasonable searches;

Whereas, each of Utah's duly elected public servants has sworn to defend and uphold the United States Constitution and the Constitution of the state of Utah;

Whereas, the state of Utah denounces and condemns all acts of terrorism by any entity, wherever the acts occur;

Whereas, terrorist attacks against Americans, like those on September 11, 2001, have necessitated the crafting of effective laws to protect citizens of the United States and others from terrorist attacks;

Whereas, any new security measures of federal, state, or local governments should be carefully designed and employed to enhance public safety without infringing on the civil liberties and rights of innocent citizens of Utah and the United States;

Whereas, Title II of the REAL ID Act of 2005 creates a national identification card by requiring that uniform information be placed on every states' driver license, requiring that the information be machine readable in a standard format, and requiring that the card be used for any federal purpose, including air travel;

Whereas, REAL ID will be a costly unfunded mandate that the Department of Homeland Security estimates will, over the next ten years, cost states 3.9 billion dollars and individuals 5.8 billion dollars;

Whereas, regulations made by the Department of Homeland Security do not adequately address fundamental burdens that the statute imposes on states and individuals, or violations of privacy and constitutional rights;

Whereas, REAL ID requires the creation of a massive public sector database containing the driver license information on every American with a license, accessible to every state motor vehicle employee and every state and federal law enforcement officer;

Whereas, REAL ID enables the creation of an additional massive private sector database of driver license information gained from scanning the machine-readable information contained on every driver license;

Whereas, these public and private databases are certain to contain numerous errors and false information, creating significant hardships for Americans attempting to verify their identity in order to fly, open a bank account, or perform any of the numerous functions required to live in the United States today;

Whereas, the Federal Trade Commission estimates that 10 million Americans are victims of identity theft annually;

Whereas, these identity thieves are increasingly targeting motor vehicle departments;

Whereas, REAL ID will facilitate the crime of identity theft by making the personal information of all Americans, including name, date of birth, gender, driver license or identification card number, digital photograph, address, and signature accessible from tens of thousands of locations;

Whereas, REAL ID requires driver licenses to contain actual home addresses and makes only limited provisions for securing personal information for individuals in potential danger such as undercover police officers and victims of domestic violence, stalking, or criminal harassment;

Whereas, REAL ID contains no exemption for religion, limits religious liberty, and tramples the beliefs of groups like the Amish and certain Evangelical Christians;

Whereas, REAL ID contains onerous record verification and retention provisions that place unreasonable burdens on both Utah's Motor Vehicle Division and on third parties required to verify records;

Whereas, REAL ID will likely place enormous burdens on individuals seeking a new driver license, including longer lines, higher costs, increased document requests, and a waiting period;

Whereas, REAL ID was passed without sufficient deliberation by Congress and never received a hearing by a congressional committee or any vote solely on its merits;

Whereas, REAL ID eliminated a process of negotiated rulemaking initiated under the Intelligence Reform and Terrorism Prevention Act of 2004, which had convened federal, state, and local policymakers, privacy advocates, and industry experts to address the misuse of identity documents;

Whereas, more than 600 organizations opposed the passage of REAL ID, including the Utah Chapter of the American Civil Liberties Union and the Utah Eagle Forum; and

Whereas, REAL ID would provide little security benefit and still leave identifications systems open to insider fraud, counterfeit documentation, and database failures: Now, therefore, be it

Resolved, That the House of Representatives of the state of Utah supports the United States Government's campaign against terrorism and its commitment that the campaign not be waged at the expense of essential civil rights and liberties of the nation's citizens that are protected in the United States Constitution, including the Bill of Rights; be it further

Resolved, That the House of Representatives opposes any portion of the REAL ID Act that violates the rights and liberties guaranteed under the Utah Constitution or the United States Constitution, including the Bill of Rights; be it further

Resolved, That the House of Representatives expresses its opposition to state legislation, including appropriations, that would further the REAL ID Act in Utah unless the appropriation is used exclusively for the purpose of undertaking a comprehensive analysis of the costs to implement REAL ID, or to mount a constitutional challenge to the Act by the state Attorney General; be it further

Resolved, That the House of Representatives urges Utah's congressional delegation to support measures to repeal Title II of the REAL ID Act of 2005 and restore the negotiated rulemaking process established under Section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004; be it further

Resolved, That the House of Representatives urges the Secretary of the Department of Homeland Security to not penalize any state or its citizens for failure to comply with the REAL ID Act pending further congressional consideration of whether to repeal the Act and replace it with an act that assists states in strengthening the security of their driver license system without burdening the finances of the states or the rights of the states' drivers; be it further

Resolved, That a copy of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the Secretary of the Department of Homeland Security, Governor Huntsman, and the members of Utah's congressional delegation.

POM–46. A resolution adopted by Legislature of the State of Utah expressing support for the construction of a museum and civil liberties learning center in Delta, Utah, for the purposes of preserving and educating about the Topaz Internment Camp site; to the Committee on the Judiciary.

SENATE JOINT RESOLUTION NO. 2

Whereas, President Franklin D. Roosevelt signed Executive Order 9066 on February 19, 1942, authorizing the evacuation of 120,000 people of Japanese ancestry from their homes in portions of Hawaii, California, Oregon, Washington, and Arizona to ten remote internment camps in Arkansas, Colorado, Arizona, California, Idaho, Wyoming, and Utah;

Whereas, one of those camps, Topaz, located near Delta, Utah, housed over 11,000 men, women, and children from September 11, 1942, until October 31, 1945, and was Utah's fifth largest city;

Whereas, over 25,000 Japanese Americans, many from Topaz, served in the United States military during World War II and suffered tremendous casualties while their families were confined in the internment camps;

Whereas, President Ronald Reagan signed into law the Civil Liberties Act of 1988, and President George H.W. Bush issued a letter of apology and redress payments to the survivors of these internment camps;

Whereas, the Topaz camp site must be preserved and protected as part of the nation's commitment to equal justice for all;

Whereas, the Topaz Museum Board, a nonprofit agency, has raised money to purchase 626 of the 640 acres of the site, has sponsored pilgrimages and teachers' workshops, has conducted Topaz Day for fourth graders in Millard County, has restored a recreation hall from the camp, and collected artifacts and oral histories, in an effort to preserve the site and educate people about the internment of American citizens;

Whereas, the Topaz site was declared a ''Save America's Treasures'' project in 1999;

Whereas, the 2006 United States House of Representatives passed HB 1492, which authorized the Secretary of the Interior to create a program within the National Park Service to further protect and provide funding for the ten internment camp sites and other significant related areas;

Whereas, Congressman Chris Cannon and Congressman Jim Matheson joined 114 others to co-sponsor HB 1492;

Whereas, Senator Daniel Inouye introduced S1719 as a companion bill to HB 1492, along with five co-sponsors, including Senator Bob Bennett and Senator Orrin Hatch; and

Whereas, in 2007 the National Park Service declared the Topaz site to be Utah's thirteenth National Historic Landmark: Now, therefore, be it

Resolved, That the Legislature of the state of Utah expresses support for the Topaz Museum Board's effort to preserve and protect the site of the Topaz Internment Camp, to build a museum and civil liberties learning center in Delta, Utah, and to educate all citizens about Japanese American internment history, especially Topaz, through artifacts, exhibits, and oral histories; be it further

Resolved, That a copy of this resolution be sent to the Topaz Museum Board, former Congressman Chris Cannon, Senator Daniel Inouye, and the members of Utah's Congressional Delegation.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. DODD for the Committee on Banking, Housing, and Urban Affairs.

*Herbert M. Allison, Jr., of Connecticut, to be an Assistant Secretary of the Treasury.

*Mercedes Marquez, of California, to be an Assistant Secretary of Housing and Urban Development.

By Mrs. BOXER for the Committee on Environment and Public Works.

*Peter Silva Silva, of California, to be an Assistant Administrator of the Environmental Protection Agency.

*Victor M. Mendez, of Arizona, to be Administrator of the Federal Highway Administration.

*Stephen Alan Owens, of Arizona, to be Assistant Administrator for Toxic Substances of the Environmental Protection Agency.

By Mr. DODD for the Committee on Health, Education, Labor, and Pensions.

*Howard K. Koh, of Massachusetts, to be an Assistant Secretary of Health and Human Services.

*Laurie I. Mikva, of Illinois, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2010.

*Martha J. Kanter, of California, to be Under Secretary of Education.

*Jane Oates, of New Jersey, to be an Assistant Secretary of Labor.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. JOHANNS (for himself, Mr. ENZI, Mr. BROWNBACK, Mr. BOND, Mr. CHAMBLISS, Mr. ROBERTS, Mr. RISCH, Mr. BARRASSO, Mr. THUNE, Mr. CORNYN, Mr. GRAHAM, Mr. MCCAIN, Mr. CRAPO, Mr. INHOFE, Mr. ENSIGN, Mr. KYL, Mr. BUNNING, Mr. VITTER, Mrs. HUTCHISON, Mr. WICKER, Mr. COBURN, Mr. HATCH, Mr. ISAKSON, Mr. MARTINEZ, Mr. GRASSLEY, Mr. BENNETT, and Mr. DEMINT):

S. 1223. A bill to require prior Congressional approval of emergency funding resulting in Government ownership of private entities; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WARNER (for himself, Ms. MIKULSKI, Mr. CARDIN, and Mr. WEBB):

S. 1224. A bill to reauthorize the Chesapeake Bay Office of the National Oceanic and Atmospheric Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SANDERS:

S. 1225. A bill to require the Commodity Futures Trading Commission to take certain actions to prevent the manipulation of energy markets, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CASEY (for himself, Mr. BENNET, and Mr. SPECTER):

S. 1226. A bill to amend the Richard B. Russell National School Lunch Act to improve paperless enrollment and efficiency for the national school lunch and school breakfast programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DeMINT (for himself, Mr. WICKER, Mr. BUNNING, and Mr. VITTER):

S. 1227. A bill to amend the National Labor Relations Act to protect employer rights; to the Committee on Health, Education, Labor, and Pensions.

By Mr. AKAKA (for himself and Mr. PRYOR):

S. 1228. A bill to amend chapter 63 of title 5, United States Code, to modify the rate of accrual of annual leave for administrative law judges, contract appeals board members, and immigration judges; to the Committee on Homeland Security and Governmental Affairs.

By Ms. LANDRIEU (for herself and Ms. SNOWE):

S. 1229. A bill to reauthorize and improve the entrepreneurial development programs of the Small Business Administration, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. ISAKSON (for himself, Mr. LIEBERMAN, Mr. DODD, Mr. CHAMBLISS, Mr. ALEXANDER, Mr. RISCH, Mr. ENSIGN, Mr. BUNNING, Ms. MURKOWSKI, and Mr. VITTER):

S. 1230. A bill to amend the Internal Revenue Code of 1986 to provide a Federal income tax credit for certain home purchases; to the Committee on Finance.

By Mr. DODD:

S. 1231. A bill to create or adopt, and implement, rigorous and voluntary American education content standards in mathematics and science covering kindergarten through grade 12, to provide for the assessment of student proficiency benchmarked against such standards, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DORGAN (for himself, Ms. SNOWE, Mr. GRASSLEY, Mr. KENNEDY, Mr. MCCAIN, Ms. STABENOW, Mr. BINGAMAN, Ms. COLLINS, Mr. DURBIN, Mr. NELSON of Florida, Mr. KOHL, Mr. LEVIN, Mr. LEAHY, Mr. SANDERS, Mr. KERRY, Mr. BROWN, Mr. FEINGOLD, Mr. JOHNSON, Mr. INOUYE, Mr. TESTER, Mr. CASEY, Mrs. MCCASKILL, Mr. THUNE, Mr. BEGICH, Mrs. SHAHEEN, Ms. KLOBUCHAR, Mr. SPECTER, Mrs. BOXER, and Mr. VITTER):

S. 1232. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs, and for other purposes; read the first time.

By Ms. LANDRIEU (for herself and Ms. SNOWE):

S. 1233. A bill to reauthorize and improve the SBIR and STTR programs and for other purposes; to the Committee on Small Business and Entrepreneurship.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. Res. 181. A resolution designating June 10, 2009, as ''National Pipeline Safety Day''; considered and agreed to.

By Mr. KERRY (for himself, Mr. LUGAR, Mrs. SHAHEEN, Mr. CARDIN, Mr. LIEBERMAN, and Mr. DEMINT):

S. Res. 182. A resolution recognizing the democratic accomplishments of the people of Albania and expressing the hope that the parliamentary elections on June 28, 2009, maintain and improve the transparency and fairness of democracy in Albania; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 211

At the request of Mr. COCHRAN, his name was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral on human services and volunteer services, and for other purposes.

S. 244

At the request of Mrs. MURRAY, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 244, a bill to expand programs of early childhood home visitation that increase school readiness, child abuse and neglect prevention, and early identification of developmental and health delays, including potential mental health concerns, and for other purposes.

S. 292

At the request of Mr. SPECTER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 292, a bill to repeal the imposition of withholding on certain payments made to vendors by government entities.

S. 423

At the request of Mr. AKAKA, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 423, a bill to amend title 38, United States Code, to authorize advance appropriations for certain medical care accounts of the Department of Veterans Affairs by providing two-fiscal year budget authority, and for other purposes.

S. 486

At the request of Mr. SANDERS, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 486, a bill to achieve access to comprehensive primary health care services for all Americans and to reform the organization of primary care delivery through an expansion of the

Community Health Center and National Health Service Corps programs.

S. 491

At the request of Mr. WEBB, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 491, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 638

At the request of Mrs. MURRAY, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 638, a bill to provide grants to promote financial and economic literacy.

S. 660

At the request of Mr. HATCH, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 660, a bill to amend the Public Health Service Act with respect to pain care.

S. 663

At the request of Mr. NELSON of Nebraska, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 663, a bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to establish the Merchant Mariner Equity Compensation Fund to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

S. 797

At the request of Mr. DORGAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 797, a bill to amend the Indian Law Enforcement Reform Act, the Indian Tribal Justice Act, the Indian Tribal Justice Technical and Legal Assistance Act of 2000, and the Omnibus Crime Control and Safe Streets Act of 1968 to improve the prosecution of, and response to, crimes in Indian country, and for other purposes.

S. 801

At the request of Mr. AKAKA, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 801, a bill to amend title 38, United States Code, to waive charges for humanitarian care provided by the Department of Veterans Affairs to family members accompanying veterans severely injured after September 11, 2001, as they receive medical care from the Department and to provide assistance to family caregivers, and for other purposes.

S. 843

At the request of Mr. LAUTENBERG, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 843, a bill to establish background check procedures for gun shows.

S. 860

At the request of Mr. NELSON of Nebraska, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 860, a bill to amend the Internal Revenue Code of 1986 to provide a Federal income tax exclusion for assistance provided to participants in State student loan programs for certain health professionals.

S. 910

At the request of Mr. BROWNBACK, his name was added as a cosponsor of S. 910, a bill to amend the Emergency Economic Stabilization Act of 2008, to provide for additional monitoring and accountability of the Troubled Asset Relief Program.

S. 968

At the request of Mr. REID, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 968, a bill to award competitive grants to eligible partnerships to enable the partnerships to implement innovative strategies at the secondary school level to improve student achievement and prepare at-risk students for postsecondary education and the workforce.

S. 973

At the request of Mr. NELSON of Florida, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 973, a bill to amend title XVIII of the Social Security Act to provide for the distribution of additional residency positions, and for other purposes.

S. 999

At the request of Mr. BINGAMAN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 999, a bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes.

S. 1071

At the request of Mr. CHAMBLISS, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 1071, a bill to protect the national security of the United States by limiting the immigration rights of individuals detained by the Department of Defense at Guantanamo Bay Naval Base.

S. 1135

At the request of Ms. STABENOW, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 1135, a bill to establish a voluntary program in the National Highway Traffic Safety Administration to encourage consumers to trade-in older vehicles for more fuel efficient vehicles, and for other purposes.

S. 1150

At the request of Mr. ROCKEFELLER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1150, a bill to improve end-of-life care.

S. 1157

At the request of Mr. CONRAD, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1157, a bill to amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes.

S. 1196

At the request of Ms. LANDRIEU, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 1196, a bill to amend the Small Business Act to improve the Office of International Trade, and for other purposes.

S. 1204

At the request of Mrs. MURRAY, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1204, a bill to amend the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001 to require the provision of chiropractic care and services to veterans at all Department of Veterans Affairs medical centers, and for other purposes.

S. 1214

At the request of Mr. LIEBERMAN, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 1214, a bill to conserve fish and aquatic communities in the United States through partnerships that foster fish habitat conservation, to improve the quality of life for the people of the United States, and for other purposes.

S. 1219

At the request of Mr. KOHL, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1219, a bill to amend subtitle A of the Antitrust Criminal Penalty Enhancement and Reform Act of 2004 to extend the operation of such subtitle for a 1-year period ending June 22, 2010.

S. 1221

At the request of Mr. SPECTER, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1221, a bill to amend title XVIII of the Social Security Act to ensure more appropriate payment amounts for drugs and biologicals under part B of the Medicare Program by excluding customary prompt pay discounts extended to wholesalers from the manufacturer's average sales price.

S. CON. RES. 11

At the request of Ms. COLLINS, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. Con. Res. 11, a concurrent resolution condemning all forms of anti-Semitism and reaffirming the support of Congress for the mandate of the Special Envoy to Monitor and Combat Anti-Semitism, and for other purposes.

S. CON. RES. 24

At the request of Mr. CHAMBLISS, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. Con. Res. 24, a concurrent resolution to direct the Architect of the Capitol to place a marker in Emancipation Hall in the Capitol Visitor Center which acknowledges the role that slave labor played in the construction of the United States Capitol, and for other purposes.

S. RES. 65

At the request of Mr. KOHL, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 65, a resolution honoring the 100th anniversary of Fort McCoy in Sparta, Wisconsin.

S. RES. 81

At the request of Mr. KERRY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Res. 81, a resolution supporting the goals and ideals of World Water Day.

S. RES. 176

At the request of Mr. FEINGOLD, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. Res. 176, a resolution expressing the sense of the Senate on United States policy during the political transition in Zimbabwe, and for other purposes.

AMENDMENT NO. 1268

At the request of Mr. CHAMBLISS, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of amendment No. 1268 intended to be proposed to H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHANNS (for himself, Mr. ENZI, Mr. BROWNBACK, Mr. BOND, Mr. CHAMBLISS, Mr. ROBERTS, Mr. RISCH, Mr. BARRASSO, Mr. THUNE, Mr. CORNYN, Mr. GRAHAM, Mr. MCCAIN, Mr. CRAPO, Mr. INHOFE, Mr. ENSIGN, Mr. KYL, Mr. BUNNING, Mr. VITTER, Mrs. HUTCHISON, Mr. WICKER, Mr. COBURN, Mr. HATCH, Mr. ISAKSON, Mr. MARTINEZ, Mr. GRASSLEY, Mr. BENNETT, and Mr. DEMINT):

S. 1223. A bill to require prior Congressional approval and emergency funding resulting in Government ownership of private entities; to the Committee on Banking, Housing, and Urban Affairs.

Mr. JOHANNS. Mr. President, I rise to present a piece of legislation that I believe the Senate should consider immediately. I believe this legislation is so important that it can't wait. The legislation I introduce today is the Free Enterprise Act of 2009, and its purpose is very straightforward. The Free Enterprise Act of 2009 requires prior congressional approval of any TARP funding that results in the government taking a common or preferred equity interest in any private entity.

Since the inception of the TARP program, my colleagues from both sides of the aisle, in a very bipartisan way, have voiced concerns over the management, the oversight, and the purpose of TARP. Yet the program continues morphing and drifting away from its original purpose: to buy toxic assets and keep credit flowing to consumers. That was the purpose of TARP when it was sold to Congress back in October. TARP was never intended—never intended—to be a revolving, $700 billion blank check for the administration to use however it sees fit. Unfortunately, that is exactly what it has become.

First, the checks were used to bail out the banks, then to the struggling insurance giant AIG, then to the floundering housing market, and despite a December vote by Congress that rejected—specifically rejected—a bailout of the auto industry, TARP funds are now being used to bankroll the auto industry.

I am quite certain most of my colleagues would have looked at me in disbelief if I would have said a few months ago that TARP funds would essentially be used to buy a private auto company—General Motors—and then rush it through bankruptcy. Yet last Monday the Obama administration announced it would provide $30 billion more in TARP funds to buy General Motors, owning a 60-percent interest in the company.

The bottom line is our government is now running or is very deeply involved in major industrial sectors, including housing, banking, insurance, and now automobiles. There is no longer a clear distinction between companies owned by investors and entities owned and backed by the government.

I am deeply troubled by the change in how business in America is conducted, and I am worried we are causing irreparable changes and damage to our private market system. But I am equally troubled and worried that all these ownership and management decisions are being made—literally buying a car company—without congressional input or approval.

Many may completely disagree with me and think the government should get in the auto business, that they should own a 60-percent stake in General Motors or that the government should be a 34-percent owner of Citigroup. But the one thing all my colleagues should be able to agree on is the fact that Congress needs checks and balances.

Right now, disagree or agree with me, none of us in Congress have had a voice—neither a voice in support nor a voice in opposition. We woke up, just like the citizens of America, and found out that we own 60 percent of General Motors—a decision made by President Obama literally with no oversight by Congress.

What has happened is the legislative branch has effectively given President Obama a free pass to do as he wishes with $700 billion. But with the passage of this legislation, we can regain some type of oversight over the disbursement of TARP funds. Let's not continue to criticize the use and management of TARP funds and yet do nothing about it. Support for this legislation is an important step in the right direction. It would ensure that Congress provides checks and balances. That is what we were elected to deliver. That is why we are here.

At the very minimum, let's at least have a vote before the government takes ownership of private companies. My bill only asks for a simple majority governed by the normal rules of the Senate. But it makes a very significant statement that Congress has not fallen asleep at the switch.

I hope my colleagues will not choose to remain silently in their seats. We must fulfill our duties to provide oversight over the executive branch. That is what our Constitution demands. I urge my colleagues, whether you support or oppose funds for private industry, to reclaim the role Congress has in this process. Doing anything less would simply be a dereliction of our duty.

When I introduced this legislation as an amendment to S. 982, it quickly got 30 cosponsors. I am very happy to report that many of these people have joined me as cosponsors, and we are nearing that number again.

I encourage all of my colleagues to support this commonsense legislation and join me as a cosponsor. We can work together to ensure that free enterprise is not relegated to the back burner in this country, and, most important, we can work together, whether you agree or disagree, to make sure Congress is not relegated to the back burner. The Free Enterprise Act is a positive step in that direction.

By Mr. WARNER (for himself, Ms. MIKULSKI, Mr. CARDIN, and Mr. WEBB):

S. 1224. A bill to reauthorize the Chesapeake Bay Office of the National Oceanic and Atmospheric Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. WARNER. Mr. President, today I am introducing legislation to reauthorize the National Oceanic and Atmospheric Administration's important programs to restore the Chesapeake Bay and its aquatic resources. This measure is a companion to H.R. 1771, a bill recently introduced in the House by Representatives SARBANES, WITTMAN and KRATOVIL. Joining me in sponsoring this legislation are my colleagues Senator WEBB from Virginia and Senators MIKULSKI and CARDIN from neighboring Maryland.

Throughout my public career, I have been a strong advocate for protecting our natural resources. One of the most important efforts in Virginia's environmental history has been preservation of the Chesapeake Bay, the nation's most important estuary. I am proud that we brought record funding to efforts related to cleaning the Chesapeake Bay and the toughest regulations for water quality yet. The Commonwealth's 3,300 miles of coastal resources provide significant economic

contributions to tourism, recreation, commercial and sport fisheries, and wildlife enjoyment within our State. Yet the safety of the Bay is still in great jeopardy; pollution, habitat loss and other factors have taken their toll.

NOAA has been a principal partner with the Bay region states and other Federal agencies in efforts to protect and restore the Chesapeake Bay ecosystem since 1984. Its mission is focusing NOAA capabilities in science, service, and stewardship to protect and restore the Chesapeake Bay. Congress formally authorized NOAA's participation in the Bay in Public Law 98–210 enacted in 1992 and reauthorized the program in 2002, Public Law 107–372. That authority expired 3 years ago, in 2006, and must be reauthorized.

Over the years, NOAA's work in the Chesapeake Bay has focused on three critical and interrelated areas—ecosystem science, coastal and living resources management, and environmental education—all part of an ecosystem approach for Bay restoration and management. The agency's science and research programs, conducted in collaboration with major academic institutions, are helping decision-makers survey and assess trends in living resources, understand and evaluate the responses of these resources to changes in their environment, and establish management goals and progress indicators. Through the Chesapeake Bay Observing System and the next-generation Chesapeake Bay Integrated Buoy System, NOAA is providing monitoring data on environmental conditions and water quality in the Bay necessary to track Bay restoration progress. The NOAA Chesapeake Bay Office's fish, shellfish and habitat restoration programs are helping to restore native oysters, blue crabs, and bay grasses throughout the watershed. And NOAA's pioneering Bay Watershed Education and Training program, B-WET, is making hands-on watershed education and training available to students and teachers throughout the watershed, bringing marine and weather sciences into the classroom and helping to foster stewardship of the Bay.

NOAA administers its work throughout the 64,000 square mile, 6 State watershed from offices in Maryland and Virginia, which collaborate with State and other Federal agencies, academic institutions, and nongovernmental organizations to support Bay protection and restoration goals. In Norfolk, Virginia, the NOAA Chesapeake Bay Office's science and education programs are incorporated into exhibits at Nauticus, our State's premier maritime center, which receives more than 350,000 visitors annually, and helps inform the public about NOAA's programs and activities. At the College of William and Mary's Virginia Institute of Marine Science, VIMS, NOAA is collaborating with a major academic partner to improve understanding of Bay fisheries and support improved oyster restoration. At Stingray Point, Norfolk and Jamestown, NOAA has deployed first-of-its-kind CBIBS interpretive buoys that are not only providing critical real-time data streams for scientists, but multidisciplinary education tools to users of the Captain John Smith Chesapeake National Historic Water Trail. Throughout the Virginia and Maryland waters of the Chesapeake Bay, NOAA is assisting watermen impacted by reductions in blue-crab harvests.

But NOAA's work and responsibilities to the Chesapeake Bay restoration effort are far from complete. The partners in the Bay restoration need the agency's continued help and support. Throughout the Bay, ecologically important fish species are in decline or at risk due to disease, habitat loss, and other factors. Underwater grasses that once provided habitat to sustain these fisheries are at a fraction of their historic levels. As advanced as our science is, Chesapeake Bay managers still do not have adequate information about the estuary and its habitats to manage its living resources or mitigate diseases in fish and shellfish.

The legislation I am introducing today builds upon previous authorizations of the NOAA Bay Program and addresses several urgent, continuing or unmet needs in the watershed. The bill seeks to achieve five main objectives.

Increasing collaboration between the various programs and activities at NOAA to further NOAA's coastal resource stewardship mission.

Improving Bay monitoring capabilities and the coordination and organization of the substantial amounts of data collected and compiled by Federal, State, and local government agencies and academic institutions through further development of an integrated observations system and the Chesapeake Bay Interpretative Buoy System.

Strengthening the Chesapeake Bay Watershed Education and Training Program, B-WET, the competitively based program which provides students with meaningful Chesapeake Bay or stream outdoor experiences and teachers with professional development opportunities for Bay-related environmental education.

Supporting and encouraging public-private partnerships to restore finfish and shellfish populations, submerged aquatic vegetation and other critical coastal habitat through aquaculture, stock enhancements, propagation and other programs.

Ensuring that Federal funds are spent wisely and effectively on projects that have scientific and technical merit and are peer reviewed.

This legislation enhances NOAA's commitment to further scientific data collection, develops fishery management practices and habitat restoration, and strengthens Chesapeake Bay environmental education programs. Mr. President, the Bay is a national treasure and its restoration should be a national priority.

Mr. President, I ask unanimous consent that letters of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHESAPEAKE BAY COMMISSION,
April 29, 2009.

Hon. MARK R. WARNER,
U.S. Senate, Dirksen Senate Office Bldg., Washington, DC.

DEAR SENATOR WARNER: It has come to my attention that you will be introducing legislation shortly to reauthorize the National Oceanic and Atmospheric Administration's (NOAA's) Chesapeake Bay Office, similar to H.R. 1771, which was recently introduced in the House of Representatives. I am writing to express our Commission's strong support for this legislation and to commend you for introducing it.

As you know, the Chesapeake Bay Commission is a tri-state legislative assembly established in 1980 to assist the states of Maryland, Virginia and Pennsylvania in cooperatively managing the Chesapeake Bay. The Commission has been a signatory to every Chesapeake Bay Agreement and continues to play a leadership role on a full spectrum of Bay issues: from managing living resources and conserving land, to protecting water quality.

We believe that reauthorizing and enhancing NOAA's Chesapeake Bay Office and its major programs in fisheries, habitat, integrated coastal observations and education are critical to the joint Federal, State and local efforts to restore Chesapeake Bay and its living resources. Our States rely heavily on NOAA's ecosystem science, coastal and living resources management, and environmental literacy capabilities to meet the commitments of Chesapeake 2000. For example:

NOAA-funded trawl surveys and stock assessment work provide information each year to help the states of MD and VA and the Potomac River Fisheries Commission decide how to manage the next season's blue crab fishery.

Since 2001 NCBO has provided over $28M to support native oyster restoration and habitat characterization in MD and VA. Current efforts are geared toward large scale ecological restoration projects in rivers like the Wicomico and Piankatank.

NOAA provides satellite-based remote sensing data for models that help state fisheries managers develop stock assessments.

Bay Watershed Education and Training (B-WET) grants totaling $2M–3.5M annually help provide meaningful watershed experiences for approximately 40,000 students throughout the watershed.

Chesapeake NEMO is providing direct assistance to local communities in PA, MD and VA to incorporate natural resources into local decision making.

NOAA's Chesapeake Bay Interpretive Buoy System (CBIBS) is providing critical real-time water quality, weather and interpretive information for managers, boaters, students and tourists alike.

The legislation you are introducing would reauthorize and strengthen NOAA's Chesapeake Bay Office. It would enhance monitoring capabilities through the further development of an integrated observations system and the Chesapeake Bay Interpretative Buoy System. It would bolster the Chesapeake Bay (B-WET) program which is helping to get students throughout the watershed outdoors and learning about the Bay. And it would help in our efforts to restore finfish and shellfish populations, Bay-grasses and other habitats through aquaculture and propagation programs.

In our special report to the Congress of February 2008, the Commission recommended reauthorization of the NOAA Chesapeake Bay Office and its major programs as a high priority. If the Commission can be of assistance to you or the Senate Commerce Committee as this legislation moves through the legislative process, please do not hesitate to let us know.

Sincerely,

DELEGATE JOHN. A. COSGROVE (VA.),
Chairman.

FRIENDS OF THE JOHN SMITH
CHESAPEAKE TRAIL,
Annapolis, MD, April 29, 2009.

Hon. MARK WARNER,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR WARNER: On behalf of the Friends of the John Smith Chesapeake Trail (''the Friends''), I want to commend and thank you for your leadership in introducing the Chesapeake Bay Science, Education, and Ecosystem Enhancement Act of 2009. The National Oceanic and Atmospheric Administration's (NOAA) Chesapeake Bay Office plays a vital role in the management and restoration of the Chesapeake Bay. We are pleased that your bill will re-authorize this important program.

Over the past three years, the Friends have worked closely with the NOAA Chesapeake Bay Office to implement the Chesapeake Bay Interpretive Buoy System (CBIBS). The system provides real-time water quality data and interpretation to further protect, restore, and manage the Chesapeake Bay and marks the Captain John Smith Chesapeake National Historic Trail. CBIBS is part of the multi-state Chesapeake Bay Observing System (CBOS), and part of the U.S. Integrated Ocean Observing System (IOOS)—systems designed to enhance our ability to collect, deliver, and use estuarine and ocean information. As you may be aware, there are currently three CBIBS buoys in the Virginia waters of the Chesapeake Bay (James River, Elizabeth River, Rappahannock River) and three buoys in Maryland (Potomac River, Patapsco River and Susquehanna River). NOAA has identified a further need for expanded coverage throughout the Bay to include many of the most important areas where water quality information is needed, including Virginia's Eastern Shore and at the mouth of the Bay.

CBIBS buoys have been designed to accommodate almost any sensor and transmit the data for real-time display. Presently they measure and report a comprehensive suite of observations, including parameters used by the Chesapeake Bay Program for assessment of impaired waters: Air temperature and relative humidity; barometric pressure; wind speed and direction; near-surface water temperature; salinity; dissolved oxygen; chlorophyll-a concentration; turbidity; and wave height, direction, and period.

The NOAA Chesapeake Bay Office has built a partnership with the National Park Service, many non-government organizations and businesses to launch this system that serves the scientific community, John Smith Trail users and citizens interested in the maritime history and culture of the Bay. CBIBS and the Captain John Smith Chesapeake National Historic Trail will function together to enhance public awareness of the natural and cultural history of the Bay. Such awareness creates tremendous motivation in restoration and conservation efforts.

The CBIBS program will (1) enhance our understanding of the Bay's biological, physical and chemical processes serve as key tool for Bay restoration; (2) promote water based tourism along the John Smith trail; (3) create an invaluable real time tool for environmental education; (4) provide advanced information tools for coastal decision makers; (5) improve weather and harmful algal bloom forecasts; and (6) support safe maritime commerce. For these reasons, we are delighted that your bill includes language to formally authorize CBIBS.

The Chesapeake Bay is a wonderful national resource with a storied history. Your legislation re-authorizing NOAA's work will help ensure the vitality of our natural resources throughout the Bay. Please let us know how we can help you pass this important bill.

With warm regards,

DAVID O'NEILL,
President.

By Mr. SANDERS:

S. 1225. A bill to require the Commodity Futures Trading Commission to take certain actions to prevent the manipulation of energy markets, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. SANDERS. Madam President, I rise today to introduce the Energy Market Manipulation Prevention Act.

Did you know we are in the midst of the worse economic crisis since the Great Depression? Millions of our fellow Americans are losing their homes, losing their jobs, losing their life savings, losing the ability to send their kids to college and, in many ways, they are losing the hope that their own children will have a brighter future and a better life than they have had. It is a very unusual moment in the history of our country.

In the midst of all of this concern and decline in the standards of living of millions of Americans, the last thing that our country needs right now is to see our people be ripped off at the gas pump this summer because of the speculators on Wall Street. Some of the very same people who caused this recession and have received the largest taxpayer bailout in American history are allowed to jack up oil prices through price manipulation and outright fraud.

This is obviously not only an issue for the moment for millions and millions of people who drive to work every day, but for truckers and farmers and all people who are dependent upon gas; and it is also an issue for many parts of our country, such as Vermont, where a lot of our people heat with oil. We are not going to sit around idly and watch the price of oil artificially rise so that elderly people who heat with oil are unable to adequately heat their homes in the wintertime.

Unfortunately, this artificial increase in oil and gas prices is exactly what is happening now, as it occurred similarly last summer, when the price of oil hit $147 a barrel. The price of gas at the pump was over $4 a gallon, and truckers paid more than $5 a gallon for diesel fuel. That is where we were last summer, and we are heading back there right now, unless Congress moves in an aggressive way to say no to speculation on oil futures.

As you know, the price of oil is supposed to be based on the fundamentals of supply and demand, not by excessive speculation. What all of us learned in economics 101 is that if there is limited supply and a lot of demand, the price of the product goes up. If there is a lot of supply and limited demand, the price goes down. That is one of the basic tenets of free market capitalism.

But interestingly, last month, crude oil inventories in the United States were at their highest level on record, while demand for oil in the United States dropped to its lowest level in more than a decade. In other words, there was a record amount of supply and less demand than we have seen over the last 10 years. Further, the International Energy Agency recently predicted that global demand for oil will drop this year to its lowest level since 1981.

What is going on? Demand is going down, supply is high, and what the fundamentals of economic theory tell us is that gas and oil prices will go down. But as everybody who fills up their gas tank today understands, that is certainly not the case, because gas and oil prices are going up.

Despite the record supply of oil and reduced demand, prices are going up, not down. In fact, the national average price of gasoline has jumped from $1.64 a gallon late last year to over $2.60 today. Crude oil prices recently reached a 7-month high.

The American people have a right to ask why is this happening, in contradiction to the basic economic process of supply and demand, and we have a right and the obligation to act to protect those consumers. The increased prices that millions of motorists are currently seeing have caused severe financial hardship for American families, truckers, small businesses, airlines, and farmers. It is putting enormous strain on an economy already in the throes of a deep recession.

We passed the stimulus package in order to create millions of jobs, in order to put money into the hands of working people, many of whom had lost their jobs. And now what we are seeing, as a result of this artificial increase in the price of gas and oil, is that those tax breaks we gave to working families are going not into the local economy, they are going right back to Wall Street and speculation, and they are going to the oil companies.

All of us have a responsibility to do everything we can to lower oil and gas prices immediately, so that they reflect supply and demand fundamentals, not excessive speculation. Therefore, the legislation I am introducing today will require the Commodities Futures Trading Commission to use its emergency powers to prevent the manipulation of oil prices and empower the CFTC with new authority to prohibit excessive speculation in the oil market.

Last July, the House of Representatives passed similar legislation by a vote of 402 to 19—widely bipartisan.

But that legislation, unfortunately, did not become law. In addition, this legislation would also require the CFTC to, No. 1, immediately classify all bank holding companies and hedge funds engaged in energy futures trading as noncommercial participants and subject them to strict position limits.

No. 2, this legislation would eliminate the conflict of interest that arises when a firm, a large Wall Street financial institution, has employees under one umbrella responsible for predicting the future price of oil—the so-called analysts—while the same company controls physical oil assets and trading energy derivatives.

No. 3, this legislation would immediately revoke all staff no-action letters for foreign boards of trade that have established trading terminals in the United States for the purpose of trading U.S. commodities to U.S. investors.

I am delighted that Bart Chilton, one of the commissioners at the U.S. Commodity Futures Trading Commission, has supported this legislation.

Madam President, I ask unanimous consent that his letter to me be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEAR SENATOR SANDERS: Thank you for taking the time out of your busy schedule to meet with me and Elizabeth Ritter regarding energy trading and needed regulatory reforms of our nation's commodities laws, rules and regulations. I appreciate your leadership in this area and look forward to working with you.

I did want to make a comment about your specific efforts. I commend you for your leadership in bringing transparency and accountability to U.S. energy markets. As you know, the Commodity Exchange Act provides the CFTC with broad emergency authority to take action, in its discretion, in order to maintain or restore orderly trading. In your proposed legislation, you have identified critically important areas of concern—excessive speculation in energy commodities, classification of bank holding companies and limits on their energy trading, hedge fund registration, classification and trading limits, conflicts of interest by entities that both trade and advise in the energy arena, and foreign market access. I wholeheartedly agree with you that the time to act on these issues is now, and the CFTC should aggressively utilize all available authorities as appropriate, including but not limited to emergency authority as currently defined in the CEA, to address these pressing issues.

Thank you again for your efforts on behalf of American consumers and taxpayers, and I look forward to working with you in the future on these important issues.

Sincerely,

BART CHILTON.

Mr. SANDERS. Let me briefly quote from the letter.

He says:

As you know, the Commodity Exchange Act provides the CFTC with broad emergency authority to take action, in its discretion, in order to maintain or restore orderly trading. In your proposed legislation, you have identified critically important areas of concern—excessive speculation in energy commodities, classification of bank holding companies and limits on their energy trading, hedge fund registration, classification and trading limits, conflicts of interest by entities that both trade and advise in the energy arena, and foreign market access. I wholeheartedly agree with you that the time to act on these issues is now, and the CFTC should aggressively utilize all available authorities as appropriate, including but not limited to emergency authority as currently defined in the CEA, to address these pressing issues.

Madam President, I thank the Commissioner for his support of this legislation.

On May 28, I wrote to Gary Gensler, the new Chairman of the CFTC, urging him to undertake many of these initiatives. Last week, in my office, I discussed this issue with Mr. Gensler. He indicated that he has instructed his staff to give him a list of all of the options available to the CFTC to respond to these concerns. While I appreciate Mr. Gensler's efforts on this issue, I hope this legislation will spur the CFTC to take immediate action to lower oil prices.

The bottom line is, right now, at a time when unemployment is soaring, when the middle class is struggling to keep its head above water, the prices at the gas pump are soaring, and we worry about what oil prices in the northern parts of our country will be in the wintertime, there is very strong evidence to suggest that what we are talking about is not supply and demand but excessive speculation on the part of Wall Street in terms of pushing up oil futures.

This Congress must act to protect the middle class and working people of this country, the consumers of this country. It is time for us to demand that the CFTC take the action that is necessary.

By Mr. CASEY (for himself, Mr. BENNET, and Mr. SPECTER):

S. 1226. A bill to amend the Richard B. Russell National School Lunch Act to improve paperless enrollment and efficiency for the national school lunch and school breakfast programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. CASEY. Mr. President, I rise today to introduce a bill with Senator BENNET of Colorado, called the Paperless Enrollment for School Meals Act. Senator BENNET and I wrote this legislation because of our mutual interest in increasing the efficiency of the school lunch program both in terms of getting meals to kids who need them and lowering program costs to school districts. Congressman FATTAH and Congresswoman SCHWARTZ are leading a companion bill on the House side.

Our bill creates a national program that is modeled after a pilot project that has been used in Philadelphia for the past 18 years. The Philadelphia program provides free lunch to all kids in schools that have over 75 percent of the students eligible for free lunches. The Philadelphia program also eliminates burdensome paper applications and replaces them with a periodic population survey that allows the U.S. Department of Agriculture to determine the reimbursement rate to the School District of Philadelphia for the meals they serve.

Modernization of the school lunch program is one of my top priorities when the Senate reauthorizes the Child Nutrition Act later this fall. The current system of requiring families to fill out paper applications at the beginning of each school year, having the school district collect and certify those applications, and then having USDA use the applications combined with the amount of meals served to determine a reimbursement rate is inefficient and outdated. Not only are paper applications inefficient, they are inaccurate. It is much more accurate to compile socio-economic data and survey populations to determine eligibility. We have anecdotal evidence of this fact in Philadelphia, where we have dramatically increased participation in school lunch through the pilot project that eliminates yearly paper applications, thereby eliminating stigma for enrollment, language barriers, and other factors that prevent eligible families from completing paper forms.

There is another way that our bill removes the stigma associated with free lunches. By providing free lunches for all students in schools that have a very high percentage of eligible children, no one is embarrassed to get their free lunch in the lunch line. Every student gets the same meal, so no knows who is getting free lunches or reduced lunches. This is a very simple policy change that can get more kids eating school lunches- kids who might otherwise go hungry that day because they don't have food at home.

Senator BENNET and I have been working on this issue for months both separately and now collaboratively with our new legislation. And we know that this is just a starting point. We have introduced this legislation to start a dialogue with Chairman HARKIN and the other members of the Committee on Agriculture Nutrition and Forestry along with our colleagues at USDA. I think that there is a lot of energy around the ideas of paperless applications and universal meals included in our bill. I encourage all Senators to support this legislation and the principles of the national program Senator BENNET and I have outlined and save our schools money while increasing access to quality school meals for the kids who need them the most.

Mr. President, I ask unanimous ocnsent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1226

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Paperless Enrollment for School Meals Act of 2009''.

SEC. 2. DATA-BASED ELIGIBILITY FOR SCHOOL MEALS PROGRAMS.

(a) ELIGIBILITY.—Section 11(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)(1)) is amended by adding at the end the following:

''(F) DATA-BASED ELIGIBILITY.—

''(i) IN GENERAL.—A school or local educational agency may elect to receive special assistance payments under clause (ii) in lieu of special assistance payments otherwise made available under this paragraph based on applications for free and reduced price lunches if the school or local educational agency—

''(I) elects to serve all children in the school or local educational agency free lunches and breakfasts under the school lunch program and school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), during a period of 5 successive school years; and

''(II) pays, from sources other than Federal funds, the costs of serving the lunches or breakfasts that are in excess of the value of assistance received under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

''(ii) ALTERNATIVE DATA SOURCES.—Subject to criteria established by the Secretary not later than December 31, 2010, special assistance payments under clause (i) may be based on an estimate of the number of children eligible for free and reduced price lunches under section 9(b)(1)(A) derived from recent data other than applications, including—

''(I) a socioeconomic survey of a representative sample of households of students, which may exclude students who have been directly certified under paragraphs (4) and (5) of section 9(b);

''(II) data from the American Community Survey of the Bureau of the Census;

''(III) data on receipt of income-tested public benefits by students or the households of students or income data collected by public benefit programs, including—

''(aa) the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.);

''(bb) the medical assistance program under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

''(cc) the supplemental security income program established under title XVI of that Act (42 U.S.C. 1381 et seq.);

''(dd) the program of block grants to States for temporary assistance for needy families established under part A of title IV of that Act (42 U.S.C. 601 et seq.); or

''(IV) other data, including State or local survey data and State or local tax records.

''(iii) PAYMENTS.—

''(I) FREE MEALS.—For each month of the period during which a school or local educational agency described in clause (i) serves free lunches or breakfasts to all enrolled children, special assistance payments at the rate for free meals shall be made for a percentage of all reimbursable meals served that is equal to the percentage of students estimated to be eligible for free meals.

''(II) REDUCED PRICE MEALS.—For each month of the period during which the school or local educational agency serves free lunches or breakfasts to all enrolled children, special assistance payments at the rate for reduced price meals shall be made for a percentage of all reimbursable meals served that is equal to the percentage of students estimated to be eligible for reduced price meals.

''(III) OTHER MEALS.—For each month of the period during which the school or local educational agency serves free lunches or breakfasts to all enrolled children, food assistance payments at the rate provided under section 4 shall be made for the remainder of the reimbursable meals served.

''(iv) RENEWALS.—

''(I) IN GENERAL.—A school or local educational agency described in clause (i) may reapply to the Secretary at the end of the period described in clause (i), and at the end of each period thereafter for which the school or local educational agency receives special assistance payments under this subparagraph, for the purpose of continuing to receive the reimbursements and assistance for a subsequent 5-school-year period.

''(II) APPROVAL.—The Secretary shall approve an application under this clause if available socioeconomic data demonstrate that the income level of the population of the school or local educational agency has remained consistent with or below the income level of the population of the school or local educational agency in the last year in which reimbursement rates were determined under clause (ii).

''(III) DATA.—Not later than December 31, 2010, the Secretary shall establish criteria regarding the socioeconomic data that may be used when applying for a renewal of the special assistance payments for a subsequent 5-school-year period.

''(G) HIGH-POVERTY AREAS.—

''(i) IN GENERAL.—A school or local educational agency may elect to receive special assistance payments under clause (ii) in lieu of special assistance payments otherwise made available under this paragraph based on applications for free and reduced price lunches if the school or local educational agency—

''(I) during a period of 2 successive school years, elects to serve all children in the school or local educational agency free lunches and breakfasts under the school lunch program under this Act and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

''(II) pays, from sources other than Federal funds, the costs of serving the lunches or breakfasts that are in excess of the value of assistance received under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

''(III)(aa) for a local educational agency, for the prior school year, directly certified under paragraphs (4) and (5) of section 9(b) at least 50 percent of the enrolled students;

''(bb) for a school, for the prior school year, directly certified under paragraphs (4) and (5) of section 9(b) at least 60 percent of the enrolled students; or

''(cc) for a local educational agency or school that received payments under this subparagraph for the prior school year, directly certifies under paragraphs (4) and (5) of section 9(b) at least 40 or 50 percent, respectively, of the enrolled students.

''(ii) PAYMENTS.—

''(I) IN GENERAL.—For each month of the school year, special assistance payments at the rate for free meals shall be made under this subparagraph for a percentage of all reimbursable meals served in an amount equal to the product obtained by multiplying—

''(aa) 1.5; by

''(bb) the percentage of students directly certified under paragraphs (4) and (5) of section 9(b), up to a maximum of 100 percent.

''(II) OTHER MEALS.—The percentage of meals served that is not described in subclause (I) shall be reimbursed at the rate provided under section 4.

''(iii) ELECTION OF OPTION.—

''(I) IN GENERAL.—Any school or local educational agency eligible for the option under clause (i) may elect to receive special assistance payments under clause (ii) for the next school year if the school or local educational agency provides to the State agency evidence of the percentage of students directly certified not later than June 30 of the current school year.

''(II) STATE AGENCY NOTIFICATION.—Not later than May 1 of each school year, each State agency shall notify—

''(aa) any local educational agency that appears, based on reported verification summary data, to have directly certified at least 50 percent of the enrolled students for the current school year, that the local educational agency may be eligible to elect to receive special assistance payments under clause (ii) for the next 2 school years and explain the procedures for the local educational agency to make such an election; and

''(bb) any local educational agency that appears, based on reported verification summary data, to have directly certified at least 40 percent of the enrolled students for the current school year, that the local educational agency may become eligible to elect to receive special assistance payments under clause (ii) for a future school year if the local educational agency directly certifies at least 50 percent of the enrolled students.

''(III) LOCAL EDUCATIONAL AGENCY NOTIFICATION.—Not later than May 1 of each school year, each local educational agency shall notify—

''(aa) any school that directly certified at least 60 percent of the enrolled students for the current school year, that the school is eligible to elect to receive special assistance payments under clause (ii) for the next school year and explain the procedures for the school to make such an election; and

''(bb) any school that directly certified at least 50 percent of the enrolled students for the current school year, that the school may become eligible to elect to receive special assistance payments under clause (ii) for a future school year if the school directly certifies at least 60 percent of the enrolled students.

''(IV) PROCEDURES.—Not later than December 31, 2010, the Secretary shall establish procedures for State agencies, local educational agencies, and schools to meet the requirements of this clause and to exercise the option provided under clause (i).''.

(b) CONFORMING AMENDMENTS.—Section 11(a)(1)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)(1)(B)) is amended by striking ''or (E)'' and inserting ''(E), (F), or (G)''.

By Mr. AKAKA (for himself and Mr. PRYOR):

S. 1228. A bill to amend chapter 63 of title 5, United States Code, to modify the rate of accrual of annual leave for administrative law judges, contract appeals board members, and immigration judges; to the Committee on Homeland Security and Governmental Affairs.

Mr. AKAKA. Mr. President, today I introduce the Administrative Judge Leave Equity Act, a bill to provide leave equity for Administrative Law Judges, ALSs, Contract Board of Appeals Judges, CBAJs, and Immigration Law Judges. I am pleased to be joined in this effort by my friend, Senator MARK PRYOR.

In 2004, Congress passed the Federal Workforce Flexibility Act, which changed the leave accrual rate for mid-

career employees entering the Federal workforce. Under the Act, agency heads were given the discretion to allow workers to qualify a period of an employee's non-Federal career experience as a period of Federal service. Additionally, the Act stated that all senior executives and senior-level employees accrued annual leave at the maximum rate of eight hours for each biweekly pay period.

Although senior executives were placed under a pay-for-performance system, administrative law judges accrued leave at the maximum rate, the same as other senior-level employees. Under the last administration, the Office of Personnel Management denied administrative law judges leave equity because they are not under a pay-for-performance system. I believe it is inappropriate for administrative law judges to be placed under any type of pay-for-performance system because it could compromise their independence. Independent decisionmaking is essential for administrative law judges, and is the reason ALJs and CBAJs do not receive bonus awards.

Currently, there is a shortage of ALJs to adjudicate benefits claims in the Social Security Administration. There are approximately 765,000 cases pending and not enough ALJs to process the backlog. I believe this bill will provide the Federal Government with an important tool in its efforts to recruit and retain highly-skilled administrative law judges.

I am pleased that this bill enjoys broad support from employee groups that represent administrative law judges, including the Association of Administrative Law Judges, the Association of Hearing Office Chief Judges, the Federal Administrative Law Judges Conference, the Forum of U.S. Administrative Law Judges, the International Federation of Professional and Technical Engineers, the National Association of Immigration Judges, and the Senior Executives Association.

The time has come to give administrative law judges the same benefits as other senior-level employees.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACCRUAL RATE OF ANNUAL LEAVE FOR ADMINISTRATIVE LAW JUDGES, CONTRACT APPEALS BOARD MEMBERS, AND IMMIGRATION JUDGES.

(a) IN GENERAL.—Section 6303 of title 5, United States Code, is amended by striking subsection (f) and inserting the following:

''(f) Notwithstanding any other provision of this section, the rate of accrual of annual leave under subsection (a) shall be 1 day for each full biweekly pay period in the case of any employee who—

''(1) holds a position which is subject to—

''(A) section 5372, 5372a, 5376, or 5383; or

''(B) a pay system equivalent to a pay system to which any provision under paragraph (1) applies, as determined by the Office of Personnel Management; or

''(2) is an immigration judge as defined under section 101(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(4)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the first day of the first applicable pay period beginning on or after 30 days after the date of enactment of this Act.

By Ms. LANDRIEU (for herself and Ms. SNOWE):

S. 1229. A bill to reauthorize and improve the entrepreneurial development programs of the Small Business Administration, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. LANDRIEU. Mr. President, the Small Business Administration has provided critical financial assistance and counseling to America's small businesses since 1953. The services and assistance provided through SBAs programs have been pivotal to this country's economic growth and have helped thousands of American entrepreneurs realize their dream of starting and growing a successful business. In this time of economic uncertainty, reauthorization of these entrepreneurial development programs is essential to moving our Nation forward.

What helps our entrepreneurs helps our entire economy. According to the U.S. Census Bureau, small businesses represent 99.7 percent of all firms, employ more than half of the workforce and account for half of the Nation's Gross Domestic Product. Small business management and technical assistance can potentially help millions of small businesses by teaching entrepreneurs and small business owners fundamental principles and practices regarding cash flow, cost management, how to access to capital and effective business planning. The SBA, through its resource partners such as Small Business Development Centers, SBDCs, Women's Business Centers, WBCs, Service Corps of Retired Executives, SCORE, and others, not only provides technical assistance and information to potential and current small business owners, but helps focus this Nation's entrepreneurial spirit into concrete economic growth.

As Chair of the Committee on Small Business and Entrepreneurship, I have heard from small business owners across the country. They have told me that the programs and services currently offered by the Small Business Administration provide access to important resources that enable them to start, grow and expand their businesses. But more can and must be done to help these entrepreneurs. Through an extensive reauthorization of the entrepreneurial development programs within the Small Business Act, I believe that we can dramatically improve the tools available to small business concerns while simultaneously growing and strengthening our economy.

That is why today I am introducing the Entrepreneurial Development Act of 2009. This legislation will provide SBA resource partners with the tools they need to effectively serve small businesses, giving them more opportunities to help lead the nation back toward economic prosperity.

Before I discuss details of this bill, I first wish to thank Senator SNOWE for her continued leadership on small business issues and working with me on this bipartisan effort. Over the past three congresses, the reauthorization of these programs has continued to receive support on both sides of the aisle, demonstrating the importance of reauthorizing essential entrepreneurial development programs.

SBA is utilizing resource partners such as SBDCs, SCORE, WBCs and others to ensure that we are growing the Nation's economy through entrepreneurial development. In 2007, with a modest Federal investment of approximately $97 million in assistance, SBDC clients generated nearly $220 million in additional Federal revenues. Many of the small businesses that received assistance from SBDC's attributed their success to assistance offered by the SBDC. Nationally, this economic activity resulted in approximately $2.26 in revenue for every Federal dollar expended.

This level of return on investment is not unique to SBDCs. According to an SBA report to Congress, SCORE helped create more than 19,000 new small businesses in 2007 at a cost of $29 per business and helped create more than 25,000 new jobs each year.

These programs also provide essential information, training and assistance to a broad and diverse cross-section of communities throughout the country, and serve to further grow a variety of industries. Resource partners such as WBCs and initiatives such as the Program for Investment in Microentrepreneurs, PRIME, are dedicated to serving clients who are economically and socially disadvantaged, providing tools and resources to small businesses in those communities that are most in need. According to a study sponsored by the Association of Women's Business Centers, AWBC, 2/3 of WBC clients have household incomes of less than $50,000 and 42 percent are women of color. These programs serve communities with limited access to capital and educational opportunities and provide them with the tools and information they need to start and manage a successful business.

The reauthorization of these programs is critical to effectively provide entrepreneurs with essential assistance and resources to start a successful business. The legislation will also create opportunities for veterans and service disabled small business owners. According to the Department of Veteran Affairs, there are more than 23.8 million veterans in the country, with hundreds of new veterans returning home from service in Iraq and Afghanistan each day. Many of these returning soldiers become entrepreneurs to support

themselves and rebuild their lives after long deployments, which also serves to create new jobs in their communities.

Since the passage of The Veterans Entrepreneurship and Small Business Development Act of 1999, the SBA's Office of Veterans Business Development has been working to provide technical assistance and support to those veterans who have served our country and returned to start or grow a small business. This legislation seeks to ease their transition by providing business counseling and technical assistance through a new network of Veterans Business Centers, modeled after Women's Business Centers and Small Business Development Centers. The Veterans Business Center Program will provide services not only to returning veterans and service disabled veterans, but also to the families, spouses and surviving spouses of these heroic men and women.

The 111th Congress will be the third consecutive Congress during which comprehensive legislation reauthorizing and improving the SBA's Entrepreneurial Programs has been introduced. Ranking Member SNOWE introduced S. 3778 in the 109th Congress and former Chairman JOHN KERRY introduced S. 1671 and S. 2920, a bill to which I was a cosponsor, during the 110th Congress. In each previous Congress, this legislation was well received and passed unanimously out of Committee; however, these bills stalled before the full Senate. As Chair of the Small Business Committee this Congress, it is a top priority of mine to finally get this legislation passed and ensure that during this time of economic uncertainty, we are able to provide small businesses with the tools they need to grow and expand their businesses. With this in mind, I will work closely with Ranking Member SNOWE and the other members of the Committee in the coming months to get this legislation to the President's desk.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1229

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Entrepreneurial Development Act of 2009''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.
TITLE I—REAUTHORIZATION
Sec. 101. Reauthorization.
TITLE II—WOMEN'S SMALL BUSINESS OWNERSHIP PROGRAMS
Sec. 201. Office of Women's Business Ownership.
Sec. 202. Women's Business Center Program.
Sec. 203. National Women's Business Council.
Sec. 204. Interagency Committee on Women's Business Enterprise.
Sec. 205. Preserving the independence of the National Women's Business Council.
Sec. 206. Study and report on women's business centers.
TITLE III—NATIVE AMERICAN SMALL BUSINESS DEVELOPMENT PROGRAM
Sec. 301. Short title.
Sec. 302. Native American small business development program.
Sec. 303. Study and report on Native American business centers.
Sec. 304. Office of Native American Affairs pilot program.
TITLE IV—VETERANS' BUSINESS CENTER PROGRAM
Sec. 401. Veterans' business center program; Office of Veterans Business Development.
Sec. 402. Reporting requirement for interagency task force.
Sec. 403. Repeal and renewal of grants.
TITLE V—PROGRAM FOR INVESTMENT IN MICROENTREPRENEURS
Sec. 501. PRIME reauthorization.
Sec. 502. Conforming repeal and amendments.
Sec. 503. References.
Sec. 504. Rule of construction.
TITLE VI—OTHER PROVISIONS
Sec. 601. Institutions of higher education.
Sec. 602. Health insurance options information for small business concerns.
Sec. 603. National Small Business Development Center Advisory Board.
Sec. 604. Privacy requirements for SCORE chapters.
Sec. 605. National small business summit.
Sec. 606. SCORE program.
Sec. 607. Assistance to out-of-state small businesses.
Sec. 608. Small business development centers.
Sec. 609. Evaluation of pilot programs.

SEC. 3. DEFINITIONS.

In this Act—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term ''small business concern'' has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632); and

(3) the term ''small business development center'' means a small business development center described in section 21 of the Small Business Act (15 U.S.C. 648).

TITLE I—REAUTHORIZATION

SEC. 101. REAUTHORIZATION.

(a) IN GENERAL.—Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) by redesignating subsection (j) as subsection (f); and

(2) by adding at the end the following:

''(g) SCORE PROGRAM.—There are authorized to be appropriated to the Administrator to carry out the SCORE program authorized by section 8(b)(1) such sums as are necessary for the Administrator to make grants or enter into cooperative agreements for a total of—

''(1) $10,000,000 in fiscal year 2010;

''(2) $11,000,000 in fiscal year 2011; and

''(3) $13,000,000 in fiscal year 2012.''.

(b) SMALL BUSINESS DEVELOPMENT CENTERS.—Section 21(a)(4)(C)(vii) of the Small Business Act (15 U.S.C. 648(a)(4)(C)(vii)) is amended to read as follows:

''(vii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subparagraph—

''(I) $150,000,000 for fiscal year 2010;

''(II) $155,000,000 for fiscal year 2011; and

''(III) $160,000,000 for fiscal year 2012.''.

(c) PAUL D. COVERDELL DRUG-FREE WORKPLACE PROGRAM.—

(1) IN GENERAL.—Section 27(g) of the Small Business Act (15 U.S.C. 654(g)) is amended—

(A) in paragraph (1), by striking ''fiscal years 2005 and 2006'' and inserting ''fiscal years 2010 through 2012''; and

(B) in paragraph (2), by striking ''fiscal years 2005 and 2006'' and inserting ''fiscal years 2010 through 2012''.

(2) CONFORMING AMENDMENT.—Section 21(c)(3)(T) of the Small Business Act (15 U.S.C. 648(c)(3)(T)) is amended by striking ''October 1, 2006'' and inserting ''October 1, 2012''.

TITLE II—WOMEN'S SMALL BUSINESS OWNERSHIP PROGRAMS

SEC. 201. OFFICE OF WOMEN'S BUSINESS OWNERSHIP.

(a) IN GENERAL.—Section 29(g) of the Small Business Act (15 U.S.C. 656(g)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (B)(i), by striking ''in the areas'' and all that follows through the end of subclause (I), and inserting the following: ''to address issues concerning the management, operations, manufacturing, technology, finance, retail and product sales, international trade, Government contracting, and other disciplines required for—

''(I) starting, operating, and increasing the business of a small business concern;''; and

(B) in subparagraph (C), by inserting before the period at the end the following: '', the National Women's Business Council, and any association of women's business centers''; and

(2) by adding at the end the following:

''(3) TRAINING.—The Administrator may provide annual programmatic and financial oversight training for women's business ownership representatives and district office technical representatives of the Administration to enable representatives to carry out their responsibilities.

''(4) PROGRAM AND TRANSPARENCY IMPROVEMENTS.—The Administrator shall maximize the transparency of the women's business center financial assistance proposal process and the programmatic and financial oversight process by—

''(A) providing public notice of the announcement for financial assistance under subsection (b) and grants under subsection (l) not later than the end of the first quarter of each fiscal year;

''(B) in the announcement described in subparagraph (A), outlining award and program evaluation criteria and describing the weighting of the criteria for financial assistance under subsection (b) and grants under subsection (l);

''(C) minimizing paperwork and reporting requirements for applicants for and recipients of financial assistance under this section;

''(D) standardizing the oversight and review process of the Administration; and

''(E) providing to each women's business center, not later than 60 days after the completion of a site visit at the women's business center (whether conducted for an audit, performance review, or other reason), a copy of site visit reports and evaluation reports prepared by district office technical representatives or officers or employees of the Administration.''.

(b) CHANGE OF TITLE.—

(1) IN GENERAL.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended—

(A) in subsection (a)—

(i) by striking paragraphs (1) and (4);

(ii) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively; and

(iii) by inserting before paragraph (4), as so redesignated, the following:

''(2) the term 'Director' means the Director of the Office of Women's Business Ownership established under subsection (g);'';

(B) by striking ''Assistant Administrator'' each place it appears and inserting ''Director''; and

(C) in subsection (g)(2), in the paragraph heading, by striking ''ASSISTANT ADMINISTRATOR'' and inserting ''DIRECTOR''.

(2) WOMEN'S BUSINESS OWNERSHIP ACT OF 1988.—Title IV of the Women's Business Ownership Act of 1988 (15 U.S.C. 7101 et seq.) is amended—

(A) in section 403(a)(2)(B), by striking ''Assistant Administrator'' and inserting ''Director'';

(B) in section 405, by striking ''Assistant Administrator'' and inserting ''Director''; and

(C) in section 406(c), by striking ''Assistant Administrator'' and inserting ''Director''.

SEC. 202. WOMEN'S BUSINESS CENTER PROGRAM.

(a) WOMEN'S BUSINESS CENTER FINANCIAL ASSISTANCE.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended—

(1) in subsection (a)—

(A) by inserting before paragraph (2), as added by section 201(b), the following:

''(1) the term 'association of women's business centers' means an organization—

''(A) that represents not less than 51 percent of the women's business centers that participate in a program under this section; and

''(B) whose primary purpose is to represent women's business centers;'';

(B) by inserting after paragraph (2), as added by section 201(b), the following:

''(3) the term 'eligible entity' means—

''(A) a private nonprofit organization;

''(B) a State, regional, or local economic development organization;

''(C) a development, credit, or finance corporation chartered by a State;

''(D) a public or private institution of higher education (as that term is used in sections 101 and 102 of the Higher Education Act of 1965 (20 U.S.C. 1001 and 1002)); or

''(E) any combination of entities listed in subparagraphs (A) through (D);''; and

(C) by adding after paragraph (5), as redesignated by section 201(b), the following:

''(6) the term 'women's business center' means a project conducted by an eligible entity under this section that—

''(A) is carried out separately from other projects, if any, of the eligible entity; and

''(B) is separate from the financial system of the eligible entity;''.

(2) in subsection (b)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), and adjusting the margins accordingly;

(B) by striking ''The Administration'' and all that follows through ''5-year project'' and inserting the following:

''(1) IN GENERAL.—The Administration may provide financial assistance to an eligible entity to conduct a project under this section'';

(C) by striking ''The projects shall'' and inserting the following:

''(2) USE OF FUNDS.—The project shall be designed to provide training and counseling that meets the needs of women, especially socially and economically disadvantaged women, and shall provide''; and

(D) by adding at the end the following:

''(3) AMOUNT OF FINANCIAL ASSISTANCE.—

''(A) IN GENERAL.—The Administrator may award financial assistance under this subsection of not less than $150,000 per year.

''(B) EQUAL ALLOCATIONS.—In the event that the Administration has insufficient funds to provide financial assistance of $150,000 for each recipient of financial assistance under this subsection in any fiscal year, available funds shall be allocated equally to recipients, unless a recipient requests a lower amount than the allocated amount.

''(4) CONSULTATION WITH ASSOCIATIONS OF WOMEN'S BUSINESS CENTERS.—The Administrator shall consult with each association of women's business centers to develop—

''(A) a training program for the staff of women's business centers and the Administration; and

''(B) recommendations to improve the policies and procedures for governing the general operations and administration of the Women's Business Center program, including grant program improvements under subsection (g)(5).'';

(3) in subsection (c)—

(A) in paragraph (1) by striking ''the recipient organization'' and inserting ''an eligible entity'';

(B) in paragraph (3), in the second sentence, by striking ''a recipient organization'' and inserting ''an eligible entity''; and

(C) in paragraph (4)—

(i) by striking ''recipient'' each place it appears and inserting ''eligible entity''; and

(ii) by striking ''such organization'' and inserting ''the eligible entity'';

(4) in subsection (e)—

(A) by striking ''applicant organization'' and inserting ''eligible entity'';

(B) by striking ''a recipient organization'' and inserting ''an eligible entity''; and

(C) by striking ''site'';

(5) by striking subsection (f) and inserting the following:

''(f) APPLICATIONS AND CRITERIA FOR INITIAL FINANCIAL ASSISTANCE.—

''(1) APPLICATION.—Each eligible entity desiring financial assistance under subsection (b) shall submit to the Administrator an application that contains—

''(A) a certification that the eligible entity—

''(i) has designated an executive director or program manager, who may be compensated from financial assistance under subsection (b) or other sources, to manage the center on a full-time basis; and

''(ii) as a condition of receiving financial assistance under subsection (b), agrees—

''(I) to receive a site visit by the Administrator as part of the final selection process;

''(II) to undergo an annual programmatic and financial review; and

''(III) to the maximum extent practicable, to remedy any problems identified pursuant to the site visit or review under subclause (I) or (II);

''(iii) meets the accounting and reporting requirements established by the Director of the Office of Management and Budget;

''(B) information demonstrating that the eligible entity has the ability and resources to meet the needs of the market to be served by the women's business center for which financial assistance under subsection (b) is sought, including the ability to obtain the non-Federal contribution required under subsection (c);

''(C) information relating to the assistance to be provided by the women's business center for which financial assistance under subsection (b) is sought in the area in which the women's business center site is located;

''(D) information demonstrating the experience and effectiveness of the eligible entity in—

''(i) conducting financial, management, and marketing assistance programs, as described under subsection (b)(2), which are designed to teach or upgrade the business skills of women who are business owners or potential business owners;

''(ii) providing training and services to a representative number of women who are socially and economically disadvantaged; and

''(iii) using resource partners of the Administration and other entities, such as universities; and

''(E) a 5-year plan that describes the ability of the women's business center for which financial assistance is sought—

''(i) to serve women who are business owners or potential owners by conducting training and counseling activities; and

''(ii) to provide training and services to a representative number of women who are socially and economically disadvantaged.

''(2) ADDITIONAL INFORMATION.—The Administrator shall make any request for additional information from an organization applying for financial assistance under subsection (b) that was not requested in the original announcement in writing.

''(3) REVIEW AND APPROVAL OF APPLICATIONS FOR INITIAL FINANCIAL ASSISTANCE.—

''(A) IN GENERAL.—The Administrator shall—

''(i) review each application submitted under paragraph (1), based on the information described in such paragraph and the criteria set forth under subparagraph (B) of this paragraph; and

''(ii) to the extent practicable, as part of the final selection process, conduct a site visit at each women's business center for which financial assistance under subsection (b) is sought.

''(B) SELECTION CRITERIA.—

''(i) IN GENERAL.—The Administrator shall evaluate applicants for financial assistance under subsection (b) in accordance with selection criteria that are—

''(I) established before the date on which applicants are required to submit the applications;

''(II) stated in terms of relative importance; and

''(III) publicly available and stated in each solicitation for applications for financial assistance under subsection (b) made by the Administrator.

''(ii) REQUIRED CRITERIA.—The selection criteria for financial assistance under subsection (b) shall include—

''(I) the experience of the applicant in conducting programs or ongoing efforts designed to teach or enhance the business skills of women who are business owners or potential business owners;

''(II) the ability of the applicant to commence a project within a minimum amount of time;

''(III) the ability of the applicant to provide training and services to a representative number of women who are socially and economically disadvantaged; and

''(IV) the location for the women's business center site proposed by the applicant, including whether the applicant is located in a State in which there is not a women's business center receiving funding from the Administration.

''(C) PROXIMITY.—If the principal place of business of an applicant for financial assistance under subsection (b) is located less than 50 miles from the principal place of business of a women's business center that received funds under this section on or before the date of the application, the applicant shall not be eligible for the financial assistance, unless the applicant submits a detailed written justification of the need for an additional center in the area in which the applicant is located.

''(D) RECORD RETENTION.—The Administrator shall maintain a copy of each application submitted under this subsection for not less than 7 years.''; and

(6) in subsection (m), by striking paragraph (3) and inserting the following:

''(3) APPLICATION AND APPROVAL FOR RENEWAL GRANTS.—

''(A) APPLICATION.—Each eligible entity desiring a grant under this subsection shall submit to the Administrator an application that contains—

''(i) a certification that the applicant—

''(I) is a private nonprofit organization;

''(II) has designated a full-time executive director or program manager to manage the women's business center operated by the applicant; and

''(III) as a condition of receiving a grant under this subsection, agrees—

''(aa) to receive a site visit as part of the final selection process;

''(bb) to submit, for the 2 full fiscal years before the date on which the application is submitted, annual programmatic and financial review reports or certified copies of the compliance supplemental audits under OMB Circular A–133 of the applicant; and

''(cc) to remedy any problem identified pursuant to the site visit or review under item (aa) or (bb);

''(ii) information demonstrating that the applicant has the ability and resources to meet the needs of the market to be served by the women's business center for which a grant under this subsection is sought, including the ability to ability to obtain the non-Federal contribution required under paragraph (4)(C);

''(iii) information relating to assistance to be provided by the women's business center for which a grant under this subsection is sought in the area of the women's business center site;

''(iv) information demonstrating the use of resource partners of the Administration and other entities;

''(v) a 3-year plan that describes the ability of the women's business center for which a grant under this subsection is sought—

''(I) to serve women who are business owners or potential business owners by conducting training and counseling activities; and

''(II) to provide training and services to a representative number of women who are socially and economically disadvantaged; and

''(vi) any additional information that the Administrator may reasonably require.

''(B) REVIEW AND APPROVAL OF APPLICATIONS FOR GRANTS.—

''(i) IN GENERAL.—The Administrator shall—

''(I) review each application submitted under subparagraph (A), based on the information described in such subparagraph and the criteria set forth under clause (ii) of this subparagraph; and

''(II) whenever practicable, as part of the final selection process, conduct a site visit at each women's business center for which a grant under this subsection is sought.

''(ii) SELECTION CRITERIA.—

''(I) IN GENERAL.—The Administrator shall evaluate applicants for grants under this subsection in accordance with selection criteria that are—

''(aa) established before the date on which applicants are required to submit the applications;

''(bb) stated in terms of relative importance; and

''(cc) publicly available and stated in each solicitation for applications for grants under this subsection made by the Administrator.

''(II) REQUIRED CRITERIA.—The selection criteria for a grant under this subsection shall include—

''(aa) the total number of entrepreneurs served by the applicant;

''(bb) the total number of new start-up companies assisted by the applicant;

''(cc) the percentage of the clients of the applicant that are socially or economically disadvantaged; and

''(dd) the percentage of individuals in the community served by the applicant who are socially or economically disadvantaged.

''(iii) CONDITIONS FOR CONTINUED FUNDING.—In determining whether to make a grant under this subsection, the Administrator—

''(I) shall consider the results of the most recent evaluation of the women's business center for which a grant under this subsection is sought, and, to a lesser extent, previous evaluations; and

''(II) may withhold a grant under this subsection, if the Administrator determines that the applicant has failed to provide the information required to be provided under this paragraph, or the information provided by the applicant is inadequate.

''(C) NOTIFICATION.—Not later than 60 days after the date of the deadline to submit applications for each fiscal year, the Administrator shall approve or deny any application under this paragraph and notify the applicant for each such application.

''(D) RECORD RETENTION.—The Administrator shall maintain a copy of each application submitted under this paragraph for not less than 7 years.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended—

(1) in subsection (h)(2), by striking ''to award a contract (as a sustainability grant) under subsection (l) or'';

(2) in subsection (j)(1), by striking ''The Administration'' and inserting ''Not later than November 1st of each year, the Administrator'';

(3) in subsection (k)—

(A) by striking paragraphs (1), (2), and (4);

(B) by redesignating paragraph (3) as paragraph (5); and

(C) by inserting before paragraph (5), as so redesignated, the following:

''(1) IN GENERAL.—There are authorized to be appropriated to the Administration to carry out this section, to remain available until expended—

''(A) $20,000,000 for fiscal year 2010;

''(B) $20,500,000 for fiscal year 2011; and

''(C) $21,000,000 for fiscal year 2012.

''(2) ALLOCATION.—Of amounts made available pursuant to paragraph (1), the Administrator shall use not less than 50 percent for grants under subsection (l).

''(3) USE OF AMOUNTS.—Amounts made available under this subsection may only be used for grant awards and may not be used for costs incurred by the Administration in connection with the management and administration of the program under this section.

''(4) CONTINUING GRANT AND COOPERATIVE AGREEMENT AUTHORITY.—

''(A) IN GENERAL.—The authority of the Administrator to provide financial assistance under this section shall be in effect for each fiscal year only to the extent and in the amounts as are provided in advance in appropriations Acts.

''(B) PROMPT DISBURSEMENT.—Upon receiving funds to carry out this section for a fiscal year, the Administrator shall, to the extent practicable, promptly reimburse funds to any women's business center awarded financial assistance under this section if the center meets the eligibility requirements under this section.

''(C) RENEWAL.—After the Administrator has entered into a grant or cooperative agreement with any women's business center under this section, the Administrator shall not suspend, terminate, or fail to renew or extend any such grant or cooperative agreement, unless the Administrator—

''(i) provides the women's business center with written notification setting forth the reasons for that action; and

''(ii) affords the center an opportunity for a hearing, appeal, or other administrative proceeding under chapter 5 of title 5, United States Code.'';

(4) in subsection (m)(4)(D), by striking ''or subsection (l)''; and

(5) by redesignating subsections (m) and (n), as amended by this Act, as subsections (l) and (m), respectively.

SEC. 203. NATIONAL WOMEN'S BUSINESS COUNCIL.

(a) MEMBERSHIP.—Section 407(f) of the Women's Business Ownership Act of 1988 (15 U.S.C. 7107(f)) is amended by adding at the end the following:

''(3) REPRESENTATION OF MEMBER ORGANIZATIONS.—In consultation with the chairperson of the Council and the Administrator, a national women's business organization or small business concern that is represented on the Council may replace its representative member on the Council during the service term to which that member was appointed.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 410(a) of the Women's Business Ownership Act of 1988 (15 U.S.C. 7110(a)) is amended by striking ''2001 through 2003, of which $550,000'' and inserting ''2010 through 2012, of which not less than 30 percent''.

SEC. 204. INTERAGENCY COMMITTEE ON WOMEN'S BUSINESS ENTERPRISE.

(a) CHAIRPERSON.—Section 403(b) of the Women's Business Ownership Act of 1988 (15 U.S.C. 7103(b)) is amended—

(1) by striking ''Not later'' and inserting the following:

''(1) IN GENERAL.—Not later''; and

(2) by adding at the end the following:

''(2) VACANCY.—In the event that a chairperson is not appointed under paragraph (1), the Deputy Administrator of the Small Business Administration shall serve as acting chairperson of the Interagency Committee until a chairperson is appointed under paragraph (1).''.

(b) POLICY ADVISORY GROUP.—Section 401 of the Women's Business Ownership Act of 1988 (15 U.S.C. 7101) is amended—

(1) by striking ''There'' and inserting the following:

''(a) ESTABLISHMENT OF COMMITTEE.—There''; and

(2) by adding at the end the following:

''(b) POLICY ADVISORY GROUP.—

''(1) ESTABLISHMENT.—There is established a Policy Advisory Group within the Interagency Committee to assist the chairperson in developing policies and programs under this Act.

''(2) MEMBERSHIP.—The Policy Advisory Group shall be composed of 7 policy making officials, of whom—

''(A) 1 shall be a representative of the Small Business Administration;

''(B) 1 shall be a representative of the Department of Commerce;

''(C) 1 shall be a representative of the Department of Labor;

''(D) 1 shall be a representative of the Department of Defense;

''(E) 1 shall be a representative of the Department of the Treasury; and

''(F) 2 shall be representatives of the Council.

''(3) MEETINGS.—The Policy Advisory Group established under paragraph (1) shall meet not less frequently than 3 times each year to—

''(A) plan activities for the new fiscal year;

''(B) track year-to-date agency contracting activities; and

''(C) evaluate the progress during the fiscal year and prepare an annual report.''.

SEC. 205. PRESERVING THE INDEPENDENCE OF THE NATIONAL WOMEN'S BUSINESS COUNCIL.

(a) FINDINGS.—Congress finds the following:

(1) The National Women's Business Council provides an independent source of advice and policy recommendations regarding women's business development and the needs of women entrepreneurs in the United States to—

(A) the President;

(B) Congress;

(C) the Interagency Committee on Women's Business Enterprise; and

(D) the Administrator.

(2) The members of the National Women's Business Council are small business owners, representatives of business organizations, and representatives of women's business centers.

(3) The chairman and ranking member of the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives make recommendations to the Administrator to fill 8 of the positions on the National Women's Business Council. Four of the positions are reserved for small business owners who are affiliated with the political party of the President, and 4 of the positions are reserved for small business owners who are not affiliated with the political party of the President. This method of appointment ensures that the National Women's Business Council will provide Congress with nonpartisan, balanced, and independent advice.

(4) In order to maintain the independence of the National Women's Business Council and to ensure that the Council continues to provide the President, the Interagency Committee on Women's Business Enterprise, the Administrator, and Congress with advice on a nonpartisan basis, it is essential that the Council maintain the bipartisan balance established under section 407 of the Women's Business Ownership Act of 1988 (15 U.S.C. 7107).

(b) MAINTENANCE OF PARTISAN BALANCE.—Section 407(f) of the Women's Business Ownership Act of 1988 (15 U.S.C. 7107(f)), as amended by this Act, is amended by adding at the end the following:

''(4) PARTISAN BALANCE.—When filling a vacancy under paragraph (1) of this subsection of a member appointed under paragraph (1) or (2) of subsection (b), the Administrator shall, to the extent practicable, ensure that there are an equal number of members on the Council from each of the 2 major political parties.

''(5) ACCOUNTABILITY.—If a vacancy is not filled within the 30-day period required under paragraph (1), or if there is an imbalance in the number of members on the Council from each of the 2 major political parties for a period exceeding 30 days, the Administrator shall submit a report, not later than 10 days after the expiration of either such 30-day deadline, to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives, that explains why the respective deadline was not met and provides an estimated date on which any vacancies will be filled, as applicable.''.

SEC. 206. STUDY AND REPORT ON WOMEN'S BUSINESS CENTERS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a broad study of the unique economic issues facing women's business centers located in covered areas to identify—

(1) the difficulties such centers face in raising non-Federal funds;

(2) the difficulties such centers face competing for financial assistance, non-Federal funds, or other types of assistance;

(3) the difficulties such centers face in writing grant proposals; and

(4) other difficulties such centers face because of the economy in the type of covered area in which such centers are located.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to Congress a report regarding the results of the study conducted under subsection (a), which shall include recommendations, if any, regarding how to—

(1) address the unique difficulties women's business centers located in covered areas face because of the type of covered area in which such centers are located;

(2) expand the presence of, and increase the services provided by, women's business centers located in covered areas; and

(3) best use technology and other resources to better serve women business owners located in covered areas.

(c) DEFINITION OF COVERED AREA.—In this section, the term ''covered area'' means—

(1) any State that is predominantly rural, as determined by the Administrator;

(2) any State that is predominantly urban, as determined by the Administrator; and

(3) any State or territory that is an island.

TITLE III—NATIVE AMERICAN SMALL BUSINESS DEVELOPMENT PROGRAM

SEC. 301. SHORT TITLE.

This title may be cited as the ''Native American Small Business Development Act of 2009''.

SEC. 302. NATIVE AMERICAN SMALL BUSINESS DEVELOPMENT PROGRAM.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 44 as section 45; and

(2) by inserting after section 43 the following:

''SEC. 44. NATIVE AMERICAN SMALL BUSINESS DEVELOPMENT PROGRAM.

''(a) DEFINITIONS.—In this section—

''(1) the term 'Alaska Native' has the meaning given the term 'Native' in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b));

''(2) the term 'Alaska Native corporation' has the meaning given the term 'Native Corporation' in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m));

''(3) the term 'Assistant Administrator' means the Assistant Administrator of the Office of Native American Affairs established under subsection (b);

''(4) the terms 'center' and 'Native American business center' mean a center established under subsection (c);

''(5) the term 'eligible applicant' means—

''(A) an Indian tribe;

''(B) a tribal college;

''(C) an Alaska Native corporation; or

''(D) a private, nonprofit organization—

''(i) that provides business and financial or procurement technical assistance to any entity described in subparagraph (A), (B), or (C); and

''(ii) the majority of members of the board of directors of which are members of an Indian tribe; or

''(E) a small business development center, women's business center, or other private organization participating in a joint project;

''(6) the term 'Indian' means a member of an Indian tribe;

''(7) the term 'Indian tribe' has the meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b);

''(8) the term 'joint project' means a project that—

''(A) combines the resources and expertise of 2 or more distinct entities at a physical location dedicated to assisting the Native American community; and

''(B) submits to the Administration a joint application that contains—

''(i) a certification that each participant of the project—

''(I) is an eligible applicant;

''(II) employs an executive director or program manager to manage the center; and

''(ii) provides information demonstrating a record of commitment to providing assistance to Native Americans and;

''(iii) information demonstrating that the participants in the joint project have the ability and resources to meet the needs, including the cultural needs, of the Native Americans to be served by the project;

''(9) the term 'Native American Business Enterprise Center' means an entity providing business development assistance to federally recognized tribes and Native Americans under a grant from the Minority Business Development Agency of the Department of Commerce;

''(10) the term 'Native American small business concern' means a small business concern that is owned and controlled by—

''(A) a member of an Indian tribe; or

''(B) an Alaska Native or Alaska Native corporation;

''(11) the term 'Native American small business development program' means the program established under subsection (c);

''(12) the term 'tribal college' has the meaning given the term 'tribally controlled college or university' has in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4)); and

''(13) the term 'tribal lands' means all lands within the exterior boundaries of any Indian reservation.

''(b) OFFICE OF NATIVE AMERICAN AFFAIRS.—

''(1) ESTABLISHMENT.—There is established within the Administration the Office of Native American Affairs, which, under the direction of the Assistant Administrator, shall implement the programs of the Administration for the development of business enterprises by Native Americans.

''(2) PURPOSE.—The purpose of the Office of Native American Affairs is to assist Native American entrepreneurs to—

''(A) start, operate, and increase the business of small business concerns;

''(B) develop management and technical skills;

''(C) seek Federal procurement opportunities;

''(D) increase employment opportunities for Native Americans through the establishment and expansion of small business concerns; and

''(E) increase the access of Native Americans to capital markets.

''(3) ASSISTANT ADMINISTRATOR.—

''(A) APPOINTMENT.—The Administrator shall appoint a qualified individual to serve as Assistant Administrator of the Office of Native American Affairs in accordance with this paragraph.

''(B) QUALIFICATIONS.—The Assistant Administrator appointed under subparagraph (A) shall have—

''(i) knowledge of Native American culture; and

''(ii) experience providing culturally tailored small business development assistance to Native Americans.

''(C) EMPLOYMENT STATUS.—The Administrator shall establish the position of Assistant Administrator as—

''(i) a position at GS-15 of the General Schedule; or

''(ii) a Senior Executive Service position to be filled by a noncareer appointee, as defined under section 3132(a)(7) of title 5, United States Code.

''(D) RESPONSIBILITIES AND DUTIES.—The Assistant Administrator shall—

''(i) in consultation with the Associate Administrator for Entrepreneurial Development, administer and manage the Native American Small Business Development program established under this section;

''(ii) recommend the annual administrative and program budgets for the Office of Native American Affairs;

''(iii) consult with Native American business centers in carrying out the program established under this section;

''(iv) recommend appropriate funding levels;

''(v) review the annual budgets submitted by each applicant for the Native American Small Business Development program;

''(vi) select applicants to participate in the program under this section;

''(vii) implement this section; and

''(viii) maintain a clearinghouse for the dissemination and exchange of information between Native American business centers.

''(E) CONSULTATION REQUIREMENTS.—In carrying out the responsibilities and duties described in this paragraph, the Assistant Administrator shall confer with and seek the advice of—

''(i) officials of the Administration working in areas served by Native American business centers;

''(ii) representatives of Indian tribes;

''(iii) tribal colleges; and

''(iv) Alaska Native corporations.

''(c) NATIVE AMERICAN SMALL BUSINESS DEVELOPMENT PROGRAM.—

''(1) AUTHORIZATION.—

''(A) IN GENERAL.—The Administration, through the Office of Native American Affairs, shall provide financial assistance to eligible applicants to create Native American business centers in accordance with this section.

''(B) USE OF FUNDS.—The financial and resource assistance provided under this subsection shall be used to establish a Native American business center to overcome obstacles impeding the creation, development, and expansion of small business concerns, in accordance with this section, by—

''(i) reservation-based American Indians; and

''(ii) Alaska Natives.

''(2) 5-YEAR PROJECTS.—

''(A) IN GENERAL.—Each Native American business center that receives assistance under paragraph (1)(A) shall conduct a 5-year project that offers culturally tailored business development assistance in the form of—

''(i) financial education, including training and counseling in—

''(I) applying for and securing business credit and investment capital;

''(II) preparing and presenting financial statements; and

''(III) managing cash flow and other financial operations of a business concern;

''(ii) management education, including training and counseling in planning, organizing, staffing, directing, and controlling each major activity and function of a small business concern; and

''(iii) marketing education, including training and counseling in—

''(I) identifying and segmenting domestic and international market opportunities;

''(II) preparing and executing marketing plans;

''(III) developing pricing strategies;

''(IV) locating contract opportunities;

''(V) negotiating contracts; and

''(VI) utilizing varying public relations and advertising techniques.

''(B) BUSINESS DEVELOPMENT ASSISTANCE RECIPIENTS.—The business development assistance under subparagraph (A) shall be offered to prospective and current owners of small business concerns that are owned by—

''(i) Indians or Indian tribes, and located on or near tribal lands; or

''(ii) Alaska Natives or Alaska Native corporations.

''(3) FORM OF FEDERAL FINANCIAL ASSISTANCE.—

''(A) DOCUMENTATION.—

''(i) IN GENERAL.—The financial assistance to Native American business centers authorized under this subsection may be made by grant, contract, or cooperative agreement.

''(ii) EXCEPTION.—Financial assistance under this subsection to Alaska Native corporations may only be made by grant or cooperative agreement.

''(B) PAYMENTS.—

''(i) TIMING.—Payments made under this subsection may be disbursed in periodic installments, at the request of the recipient.

''(ii) ADVANCE.—The Administrator may disburse not more than 25 percent of the annual amount of Federal financial assistance awarded to a Native American small business center after notice of the award has been issued.

''(C) FEDERAL SHARE.—

''(i) IN GENERAL.—

''(I) INITIAL FINANCIAL ASSISTANCE.—Except as provided in subclause (II), an eligible applicant that receives financial assistance under this subsection shall provide non-Federal contributions for the operation of the Native American business center established by the eligible applicant in an amount equal to—

''(aa) in each of the first and second years of the project, not less than 33 percent of the amount of the financial assistance received under this subsection; and

''(bb) in each of the third through fifth years of the project, not less than 50 percent of the amount of the financial assistance received under this subsection.

''(II) RENEWALS.—An eligible applicant that receives a renewal of financial assistance under this subsection shall provide non-Federal contributions for the operation of a Native American business center established by the eligible applicant in an amount equal to not less than 50 percent of the amount of the financial assistance received under this subsection.

''(4) CONTRACT AND COOPERATIVE AGREEMENT AUTHORITY.—A Native American business center may enter into a contract or cooperative agreement with a Federal department or agency to provide specific assistance to Native American and other underserved small business concerns located on or near tribal lands, to the extent that such contract or cooperative agreement is consistent with and does not duplicate the terms of any assistance received by the Native American business center from the Administration.

''(5) APPLICATION PROCESS.—

''(A) SUBMISSION OF A 5-YEAR PLAN.—Each applicant for assistance under paragraph (1) shall submit a 5-year plan to the Administration on proposed assistance and training activities.

''(B) CRITERIA.—

''(i) IN GENERAL.—The Administrator shall evaluate applicants for financial assistance under this subsection in accordance with selection criteria that are—

''(I) established before the date on which eligible applicants are required to submit the applications;

''(II) stated in terms of relative importance; and

''(III) publicly available and stated in each solicitation for applications for financial assistance under this subsection made by the Administrator.

''(ii) CONSIDERATIONS.—The criteria required by this subparagraph shall include—

''(I) the experience of the applicant in conducting programs or ongoing efforts designed to impart or upgrade the business skills of current or potential owners of Native American small business concerns;

''(II) the ability of the applicant to commence a project within a minimum amount of time;

''(III) the ability of the applicant to provide quality training and services to a significant number of Native Americans;

''(IV) previous assistance from the Administration to provide services in Native American communities;

''(V) the proposed location for the Native American business center, with priority given based on the proximity of the center to the population being served and to achieve a broad geographic dispersion of the centers; and

''(VI) demonstrated experience in providing technical assistance, including financial, marketing, and management assistance.

''(6) CONDITIONS FOR PARTICIPATION.—Each eligible applicant desiring a grant under this subsection shall submit an application to the Administrator that contains—

''(A) a certification that the applicant—

''(i) is an eligible applicant;

''(ii) employs an executive director or program manager to manage the Native American business center; and

''(iii) agrees—

''(I) to a site visit by the Administrator as part of the final selection process;

''(II) to an annual programmatic and financial examination; and

''(III) to the maximum extent practicable, to remedy any problems identified pursuant to that site visit or examination;

''(B) information demonstrating that the applicant has the ability and resources to meet the needs, including cultural needs, of the Native Americans to be served by the grant;

''(C) information relating to proposed assistance that the grant will provide, including—

''(i) the number of individuals to be assisted; and

''(ii) the number of hours of counseling, training, and workshops to be provided;

''(D) information demonstrating the effectiveness and experience of the applicant in—

''(i) conducting financial, management, and marketing assistance programs designed to educate or improve the business skills of, current or prospective Native American business owners;

''(ii) providing training and services to a representative number of Native Americans;

''(iii) using resource partners of the Administration and other entities, including universities, Indian tribes, or tribal colleges; and

''(iv) the prudent management of finances and staffing;

''(E) the location where the applicant will provide training and services to Native Americans;

''(F) a 5-year plan that describes—

''(i) the number of Native Americans and Native American small business concerns to be served by the grant;

''(ii) if the Native American business center is located in the continental United States, the number of Native Americans to be served by the grant; and

''(iii) the training and services to be provided to a representative number of Native Americans; and

''(G) if the applicant is a joint project—

''(i) a certification that each participant in the joint project is an eligible applicant;

''(ii) information demonstrating a record of commitment to providing assistance to Native Americans; and

''(iii) information demonstrating that the participants in the joint project have the ability and resources to meet the needs, including the cultural needs, of the Native Americans to be served by the grant.

''(7) REVIEW OF APPLICATIONS.—The Administrator shall approve or disapprove each completed application submitted under this subsection not later than 60 days after the date on which the eligible applicant submits the application.

''(8) PROGRAM EXAMINATION.—

''(A) IN GENERAL.—Each Native American business center established under this subsection shall annually provide to the Administrator an itemized cost breakdown of actual expenditures made during the preceding year.

''(B) ADMINISTRATION ACTION.—Based on information received under subparagraph (A), the Administration shall—

''(i) develop and implement an annual programmatic and financial examination of each Native American business center assisted pursuant to this subsection; and

''(ii) analyze the results of each examination conducted under clause (i) to determine the programmatic and financial viability of each Native American business center.

''(C) CONDITIONS FOR CONTINUED FUNDING.—In determining whether to renew a grant, contract, or cooperative agreement with a Native American business center, the Administration—

''(i) shall consider the results of the most recent examination of the center under subparagraph (B), and, to a lesser extent, previous examinations; and

''(ii) may withhold such renewal, if the Administrator determines that—

''(I) the center has failed to provide the information required to be provided under subparagraph (A), or the information provided by the center is inadequate;

''(II) the center has failed to provide adequate information required to be provided by the center for purposes of the report of the Administrator under subparagraph (E);

''(III) the center has failed to comply with a requirement for participation in the Native American small business development program, as determined by the Administrator, including—

''(aa) failure to acquire or properly document a non-Federal share;

''(bb) failure to establish an appropriate partnership or program for marketing and outreach to reach new Native American small business concerns;

''(cc) failure to achieve results described in a financial assistance agreement; and

''(dd) failure to provide to the Administrator a description of the amount and sources of any non-Federal funding received by the center;

''(IV) the center has failed to carry out the 5-year plan under in paragraph (6)(F); or

''(V) the center cannot make the certification described in paragraph (6)(A).

''(D) CONTINUING CONTRACT AND COOPERATIVE AGREEMENT AUTHORITY.—

''(i) IN GENERAL.—The authority of the Administrator to enter into contracts or cooperative agreements in accordance with this subsection shall be in effect for each fiscal year only to the extent and in the amounts as are provided in advance in appropriations Acts.

''(ii) RENEWAL.—After the Administrator has entered into a contract or cooperative agreement with any Native American business center under this subsection, the Administrator may not suspend, terminate, or fail to renew or extend any such contract or cooperative agreement unless the Administrator provides the center with written notification setting forth the reasons therefor and affords the center an opportunity for a hearing, appeal, or other administrative proceeding under chapter 5 of title 5, United States Code.

''(E) MANAGEMENT REPORT.—

''(i) IN GENERAL.—The Administration shall prepare and submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives an annual report on the effectiveness of all projects conducted by Native American business centers under this subsection and any pilot programs administered by the Office of Native American Affairs.

''(ii) CONTENTS.—Each report submitted under clause (i) shall include, with respect to each Native American business center receiving financial assistance under this subsection—

''(I) the number of individuals receiving assistance from the Native American business center;

''(II) the number of startup business concerns created with the assistance of the Native American business center;

''(III) the number of existing businesses in the area served by the Native American business center seeking to expand employment;

''(IV) the number of jobs created or maintained, on an annual basis, by Native American small business concerns assisted by the center since receiving funding under this Act;

''(V) to the maximum extent practicable, the amount of the capital investment and loan financing used by emerging and expanding businesses that were assisted by a Native American business center; and

''(VI) the most recent examination, as required under subparagraph (B), and the determination made by the Administration under that subparagraph.

''(9) ANNUAL REPORT.—Each Native American business center receiving financial assistance under this subsection shall submit to the Administrator an annual report on the services provided with the financial assistance, including—

''(A) the number of individuals assisted, categorized by ethnicity;

''(B) the number of hours spent providing counseling and training for those individuals;

''(C) the number of startup small business concerns created or maintained with the assistance of the Native American business center;

''(D) the gross receipts of small business concerns assisted by the Native American business center;

''(E) the number of jobs created or maintained by small business concerns assisted by the Native American business center; and

''(F) the number of jobs for Native Americans created or maintained at small business concerns assisted by the Native American business center.

''(10) RECORD RETENTION.—

''(A) APPLICATIONS.—The Administrator shall maintain a copy of each application submitted under this subsection for not less than 7 years.

''(B) ANNUAL REPORTS.—The Administrator shall maintain copies of the certification submitted under paragraph (6)(A) indefinitely.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 for each of fiscal years 2010 through 2012, to carry out the Native American Small Business Development program.''.

SEC. 303. STUDY AND REPORT ON NATIVE AMERICAN BUSINESS CENTERS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a broad study of the unique economic issues facing Native American business centers to identify—

(1) the difficulties such centers face in raising non-Federal funds;

(2) the difficulties such centers face competing for financial assistance, non-Federal funds, or other types of assistance;

(3) the difficulties such centers face in writing grant proposals; and

(4) other difficulties such centers face because of the economy in the area in which such centers are located.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to Congress a report regarding the results of the study conducted under subsection (a), which shall include recommendations, if any, regarding how to—

(1) address the unique difficulties Native American business centers face because of the type of area in which such centers are located;

(2) expand the presence of, and increase the services provided by, Native American business centers; and

(3) best use technology and other resources to better serve Native American business owners.

(c) DEFINITION OF NATIVE AMERICAN BUSINESS CENTER.—In this section, the term ''Native American business center'' has the meaning given that term in section 44(a) of the Small Business Act, as added by this Act.

SEC. 304. OFFICE OF NATIVE AMERICAN AFFAIRS PILOT PROGRAM.

(a) DEFINITION.—In this section, the term ''Indian tribe'' means any band, nation, or organized group or community of Indians located in the contiguous United States, and the Metlakatla Indian Community, whose members are recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians.

(b) AUTHORIZATION.—The Office of Native American Affairs of the Administration may conduct a pilot program—

(1) to develop and publish a self-assessment tool for Indian tribes that will allow such tribes to evaluate and implement best practices for economic development; and

(2) to provide assistance to Indian tribes, through an interagency working group, in identifying and implementing economic development opportunities available from the Federal Government and private enterprise, including—

(A) the Administration;

(B) the Department of Energy;

(C) the Environmental Protection Agency;

(D) the Department of Commerce;

(E) the Federal Communications Commission;

(F) the Department of Justice;

(G) the Department of Labor;

(H) the Office of National Drug Control Policy; and

(I) the Department of Agriculture.

(c) TERMINATION OF PROGRAM.—The authority to conduct a pilot program under this section shall terminate on September 30, 2012.

(d) REPORT.—Not later than September 30, 2012, the Office of Native American Affairs shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding the effectiveness of the self-assessment tool developed under subsection (b)(1).

TITLE IV—VETERANS' BUSINESS CENTER PROGRAM

SEC. 401. VETERANS' BUSINESS CENTER PROGRAM; OFFICE OF VETERANS BUSINESS DEVELOPMENT.

(a) IN GENERAL.—Section 32 of the Small Business Act (15 U.S.C. 657b) is amended by

striking subsection (f) and inserting the following:

''(f) ONLINE COORDINATION.—

''(1) DEFINITION.—In this subsection, the term 'veterans' assistance provider' means—

''(A) a veterans' business center established under subsection (g);

''(B) an employee of the Administration assigned to the Office of Veterans Business Development; and

''(C) a veterans business ownership representative designated under subsection (g)(13)(B).

''(2) ESTABLISHMENT.—The Associate Administrator shall establish an online mechanism to—

''(A) provide information that assists veterans' assistance providers in carrying out the activities of the veterans' assistance providers; and

''(B) coordinate and leverage the work of the veterans' assistance providers, including by allowing a veterans' assistance provider to—

''(i) distribute best practices and other materials;

''(ii) communicate with other veterans' assistance providers regarding the activities of the veterans' assistance provider on behalf of veterans; and

''(iii) pose questions to and request input from other veterans' assistance providers.

''(g) VETERANS' BUSINESS CENTER PROGRAM.—

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'active duty' has the meaning given that term in section 101 of title 10, United States Code;

''(B) the term 'private nonprofit organization' means an entity that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code;

''(C) the term 'Reservist' means a member of a reserve component of the Armed Forces, as described in section 10101 of title 10, United States Code;

''(D) the term 'Service Corps of Retired Executives' means the Service Corps of Retired Executives authorized under section 8(b)(1);

''(E) the term 'small business concern owned and controlled by veterans'—

''(i) has the same meaning as in section 3(q); and

''(ii) includes a small business concern—

''(I) not less than 51 percent of which is owned by one or more spouses of veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more spouses of veterans; and

''(II) the management and daily business operations of which are controlled by one or more spouses of veterans;

''(F) the term 'spouse', relating to a veteran, service-disabled veteran, or Reservist, includes an individual who is the spouse of a veteran, service-disabled veteran, or Reservist on the date on which the veteran, service-disabled veteran, or Reservist died;

''(G) the term 'veterans' business center program' means the program established under paragraph (2)(A); and

''(H) the term 'women's business center' means a women's business center described in section 29.

''(2) PROGRAM ESTABLISHED.—

''(A) IN GENERAL.—The Administrator, acting through the Associate Administrator, shall establish a veterans' business center program, under which the Associate Administrator may provide financial assistance to a private nonprofit organization to conduct a 5-year project for the benefit of small business concerns owned and controlled by veterans, which may be renewed for one or more additional 5-year periods.

''(B) FORM OF FINANCIAL ASSISTANCE.—Financial assistance under this subsection may be in the form of a grant, a contract, or a cooperative agreement.

''(3) VETERANS' BUSINESS CENTERS.—Each private nonprofit organization that receives financial assistance under this subsection shall establish or operate a veterans' business center (which may include establishing or operating satellite offices in the region described in paragraph (5) served by that private nonprofit organization) that provides to veterans (including service-disabled veterans), Reservists, and the spouses of veterans (including service-disabled veterans) and Reservists—

''(A) financial advice, including training and counseling on applying for and securing business credit and investment capital, preparing and presenting financial statements, and managing cash flow and other financial operations of a small business concern;

''(B) management advice, including training and counseling on the planning, organization, staffing, direction, and control of each major activity and function of a small business concern;

''(C) marketing advice, including training and counseling on identifying and segmenting domestic and international market opportunities, preparing and executing marketing plans, developing pricing strategies, locating contract opportunities, negotiating contracts, and using public relations and advertising techniques; and

''(D) advice, including training and counseling, for Reservists and the spouses of Reservists.

''(4) APPLICATION.—

''(A) IN GENERAL.—A private nonprofit organization desiring to receive financial assistance under this subsection shall submit an application to the Associate Administrator at such time and in such manner as the Associate Administrator may require.

''(B) 5-YEAR PLAN.—Each application described in subparagraph (A) shall include a 5-year plan on proposed fundraising and training activities relating to the veterans' business center.

''(C) DETERMINATION AND NOTIFICATION.—Not later than 60 days after the date on which a private nonprofit organization submits an application under subparagraph (A), the Associate Administrator shall approve or deny the application and notify the applicant of the determination.

''(D) AVAILABILITY OF APPLICATION.—The Associate Administrator shall make every effort to make the application under subparagraph (A) available online.

''(5) ELIGIBILITY.—The Associate Administrator may select to receive financial assistance under this subsection—

''(A) a Veterans Business Outreach Center established by the Administrator under section 8(b)(17) on or before the day before the date of enactment of this subsection;

''(B) a private nonprofit organization that—

''(i) received financial assistance in fiscal year 2006 from the National Veterans Business Development Corporation established under section 33; and

''(ii) is in operation on the date of enactment of this subsection; or

''(C) other private nonprofit organizations located in various regions of the United States, as the Associate Administrator determines is appropriate.

''(6) SELECTION CRITERIA.—

''(A) IN GENERAL.—The Associate Administrator shall establish selection criteria, stated in terms of relative importance, to evaluate and rank applicants under paragraph (5)(C) for financial assistance under this subsection.

''(B) CRITERIA.—The selection criteria established under this paragraph shall include—

''(i) the experience of the applicant in conducting programs or ongoing efforts designed to impart or upgrade the business skills of veterans, and the spouses of veterans, who own or may own small business concerns;

''(ii) for an applicant for initial financial assistance under this subsection—

''(I) the ability of the applicant to begin operating a veterans' business center within a minimum amount of time; and

''(II) the geographic region to be served by the veterans business center;

''(iii) the demonstrated ability of the applicant to—

''(I) provide managerial counseling and technical assistance to entrepreneurs; and

''(II) coordinate services provided by veterans services organizations and other public or private entities; and

''(iv) for any applicant for a renewal of financial assistance under this subsection, the results of the most recent examination under paragraph (10) of the veterans' business center operated by the applicant.

''(C) CRITERIA PUBLICLY AVAILABLE.—The Associate Administrator shall—

''(i) make publicly available the selection criteria established under this paragraph; and

''(ii) include the criteria in each solicitation for applications for financial assistance under this subsection.

''(7) AMOUNT OF ASSISTANCE.—The amount of financial assistance provided under this subsection to a private nonprofit organization for each fiscal year shall be—

''(A) not less than $150,000; and

''(B) not more than $200,000.

''(8) FEDERAL SHARE.—

''(A) IN GENERAL.—

''(i) INITIAL FINANCIAL ASSISTANCE.—Except as provided in clause (ii), a private nonprofit organization that receives financial assistance under this subsection shall provide non-Federal contributions for the operation of the veterans business center established by the private nonprofit organization in an amount equal to—

''(I) in each of the first and second years of the project, not less than 33 percent of the amount of the financial assistance received under this subsection; and

''(II) in each of the third through fifth years of the project, not less than 50 percent of the amount of the financial assistance received under this subsection.

''(ii) RENEWALS.—A private nonprofit organization that receives a renewal of financial assistance under this subsection shall provide non-Federal contributions for the operation of the veterans business center established by the private nonprofit organization in an amount equal to not less than 50 percent of the amount of the financial assistance received under this subsection .

''(B) FORM OF NON-FEDERAL SHARE.—Not more than 50 percent of the non-Federal share for a project carried out using financial assistance under this subsection may be in the form of in-kind contributions.

''(C) TIMING OF DISBURSEMENT.—The Associate Administrator may disburse not more than 25 percent of the financial assistance awarded to a private nonprofit organization before the private nonprofit organization obtains the non-Federal share required under this paragraph with respect to that award.

''(D) FAILURE TO OBTAIN NON-FEDERAL FUNDING.—

''(i) IN GENERAL.—If a private nonprofit organization that receives financial assistance under this subsection fails to obtain the non-Federal share required under this paragraph during any fiscal year, the private nonprofit organization may not receive a disbursement

under this subsection in a subsequent fiscal year or a disbursement for any other project funded by the Administration, unless the Administrator makes a written determination that the private nonprofit organization will be able to obtain a non-Federal contribution.

''(ii) RESTORATION.—A private nonprofit organization prohibited from receiving a disbursement under clause (i) in a fiscal year may receive financial assistance in a subsequent fiscal year if the organization obtains the non-Federal share required under this paragraph for the subsequent fiscal year.

''(9) CONTRACT AUTHORITY.—A veterans' business center may enter into a contract with a Federal department or agency to provide specific assistance to veterans, service-disabled veterans, Reservists, or the spouses of veterans, service-disabled veterans, or Reservists. Performance of such contract shall not hinder the veterans' business center in carrying out the terms of the grant received by the veterans' business centers from the Administrator.

''(10) EXAMINATION AND DETERMINATION OF VIABILITY.—

''(A) EXAMINATION.—

''(i) IN GENERAL.—The Associate Administrator shall conduct an annual examination of the programs and finances of each veterans' business center established or operated using financial assistance under this subsection.

''(ii) FACTORS.—In conducting the examination under clause (i), the Associate Administrator shall consider whether the veterans business center has failed—

''(I) to provide the information required to be provided under subparagraph (B), or the information provided by the center is inadequate;

''(II) the center has failed to comply with a requirement for participation in the veterans' business center program, as determined by the Assistant Administrator, including—

''(aa) failure to acquire or properly document a non-Federal share;

''(bb) failure to establish an appropriate partnership or program for marketing and outreach to small business concerns;

''(cc) failure to achieve results described in a financial assistance agreement; and

''(dd) failure to provide to the Administrator a description of the amount and sources of any non-Federal funding received by the center;

''(III) to carry out the 5-year plan under in paragraph (4)(B); or

''(IV) to meet the eligibility requirements under paragraph (5).

''(B) INFORMATION PROVIDED.—In the course of an examination under subparagraph (A), the veterans' business center shall provide to the Associate Administrator—

''(i) an itemized cost breakdown of actual expenditures for costs incurred during the most recent full fiscal year;

''(ii) documentation of the amount of non-Federal contributions obtained and expended by the veterans' business center during the most recent full fiscal year; and

''(iii) with respect to any in-kind contribution under paragraph (8)(B), verification of the existence and valuation of such contributions.

''(C) DETERMINATION OF VIABILITY.—The Associate Administrator shall analyze the results of each examination under this paragraph and, based on that analysis, make a determination regarding the viability of the programs and finances of each veterans' business center.

''(D) DISCONTINUATION OF FUNDING.—

''(i) IN GENERAL.—The Associate Administrator may discontinue an award of financial assistance to a private nonprofit organization at any time if the Associate Administrator determines under subparagraph (C) that the veterans' business center operated by that organization is not viable.

''(ii) RESTORATION.—The Associate Administrator may continue to provide financial assistance to a private nonprofit organization in a subsequent fiscal year if the Associate Administrator determines under subparagraph (C) that the veterans' business center is viable.

''(11) PRIVACY REQUIREMENTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a veterans' business center established or operated using financial assistance provided under this subsection may not disclose the name, address, or telephone number of any individual or small business concern that receives advice from the veterans' business center without the consent of the individual or small business concern.

''(B) EXCEPTION.—A veterans' business center may disclose information described in subparagraph (A)—

''(i) if the Administrator or Associate Administrator is ordered to make such a disclosure by a court in any civil or criminal enforcement action initiated by a Federal or State agency; or

''(ii) to the extent that the Administrator or Associate Administrator determines that such a disclosure is necessary to conduct a financial audit of a veterans' business center.

''(C) ADMINISTRATION USE OF INFORMATION.—This paragraph does not—

''(i) restrict access by the Administrator to program activity data; or

''(ii) prevent the Administrator from using information not described in subparagraph (A) to conduct surveys of individuals or small business concerns that receive advice from a veterans' business center.

''(D) REGULATIONS.—The Administrator shall issue regulations to establish standards for requiring disclosures under subparagraph (B)(ii).

''(12) REPORT.—

''(A) IN GENERAL.—Not later than 60 days after the end of each fiscal year, the Associate Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the effectiveness of the veterans' business center program in each region during the most recent full fiscal year.

''(B) CONTENTS.—Each report under this paragraph shall include, at a minimum, for each veterans' business center established or operated using financial assistance provided under this subsection—

''(i) the number of individuals receiving assistance from the veterans' business center, including the number of such individuals who are—

''(I) veterans or spouses of veterans;

''(II) service-disabled veterans or spouses of service-disabled veterans; or

''(III) Reservists or spouses of Reservists;

''(ii) the number of startup small business concerns formed by individuals receiving assistance from the veterans' business center, including—

''(I) veterans or spouses of veterans;

''(II) service-disabled veterans or spouses of service-disabled veterans; or

''(III) Reservists or spouses of Reservists;

''(iii) the gross receipts of small business concerns that receive advice from the veterans' business center;

''(iv) the employment increases or decreases of small business concerns that receive advice from the veterans' business center;

''(v) to the maximum extent practicable, the increases or decreases in profits of small business concerns that receive advice from the veterans' business center; and

''(vi) the results of the examination of the veterans' business center under paragraph (10).

''(13) COORDINATION OF EFFORTS AND CONSULTATION.—

''(A) COORDINATION AND CONSULTATION.—To the extent practicable, the Associate Administrator and each private nonprofit organization that receives financial assistance under this subsection shall—

''(i) coordinate outreach and other activities with other programs of the Administration and the programs of other Federal agencies;

''(ii) consult with technical representatives of the district offices of the Administration in carrying out activities using financial assistance under this subsection; and

''(iii) provide information to the veterans business ownership representatives designated under subparagraph (B) and coordinate with the veterans business ownership representatives to increase the ability of the veterans business ownership representatives to provide services throughout the area served by the veterans business ownership representatives.

''(B) VETERANS BUSINESS OWNERSHIP REPRESENTATIVES.—

''(i) DESIGNATION.—The Administrator shall designate not fewer than 1 individual in each district office of the Administration as a veterans business ownership representative, who shall communicate and coordinate activities of the district office with private nonprofit organizations that receive financial assistance under this subsection.

''(ii) INITIAL DESIGNATION.—The first individual in each district office of the Administration designated by the Administrator as a veterans business ownership representative under clause (i) shall be an individual that is employed by the Administration on the date of enactment of this subsection.

''(14) EXISTING CONTRACTS.—An award of financial assistance under this subsection shall not void any contract between a private nonprofit organization and the Administration that is in effect on the date of such award.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

''(1) to carry out subsections (a) through (f), $2,000,000 for each of fiscal years 2010 through 2012; and

''(2) to carry out subsection (g)—

''(A) $8,000,000 for fiscal year 2010;

''(B) $8,500,000 for fiscal year 2011; and

''(C) $9,000,000 for fiscal year 2012.''.

(b) GAO REPORT.—

(1) DEFINITIONS.—In this subsection—

(A) the term ''small business concern owned and controlled by veterans'' has the meaning given that term in section 32(g) of the Small Business Act, as added by this section; and

(B) the term ''veterans' business center program'' means the veterans' business center program established under section 32(g) of the Small Business Act, as added by this section.

(2) REPORT.—

(A) IN GENERAL.—Not later than 60 days after the end of the second fiscal year beginning after the date on which the veterans' business center program is established, the Comptroller General of the United States shall evaluate the effectiveness of the veterans' business center program, and submit to Congress a report on the results of that evaluation.

(B) CONTENTS.—The report submitted under subparagraph (A) shall include

(i) an assessment of—

(I) the use of amounts made available to carry out the veterans' business center program;

(II) the effectiveness of the services provided by each private nonprofit organization receiving financial assistance under the veterans' business center program;

(III) whether the services described in clause (ii) are duplicative of services provided by other veteran service organizations, programs of the Administration, or programs of another Federal department or agency and, if so, recommendations regarding how to alleviate the duplication of the services; and

(IV) whether there are areas of the United States in which there are not adequate entrepreneurial services for small business concerns owned and controlled by veterans and, if so, whether there is a veterans' business center established under the veterans' business center program providing services to that area; and

(ii) recommendations, if any, for improving the veteran's business center program.

SEC. 402. REPORTING REQUIREMENT FOR INTERAGENCY TASK FORCE.

Section 32(c) of the Small Business Act (15 U.S.C. 657b(c)) is amended by adding at the end the following:

''(4) REPORT.—Not less frequently than twice each year, the Administrator shall submit to Congress a report on the appointments made to and activities of the task force.''.

SEC. 403. REPEAL AND RENEWAL OF GRANTS.

(a) DEFINITION.—In this section, the term ''covered grant, contract, or cooperative agreement'' means a grant, contract, or cooperative agreement that was—

(1) made or entered into under section 8(b)(17) of the Small Business Act (15 U.S.C. 637(b)(17)); and

(2) in effect on or before the date described in subsection (b)(2).

(b) REPEAL.—

(1) IN GENERAL.—Section 8(b) of the Small Business Act (15 U.S.C. 637(b)) is amended—

(A) in paragraph (15), by adding ''and'' at the end;

(B) in paragraph (16), by striking ''; and'' and inserting a period; and

(C) by striking paragraph (17).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect 60 days after the date of enactment of this Act.

(c) TRANSITIONAL RULES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a covered grant, contract, or cooperative agreement shall remain in full force and effect under the terms, and for the duration, of the covered grant, contract, or agreement.

(2) ADDITIONAL REQUIREMENTS.—Any organization that was awarded or entered into a covered grant, contract, or cooperative agreement shall be subject to the requirements of section 32(g) of the Small Business Act (15 U.S.C. 657b(g)) (as added by this Act).

(d) RENEWAL OF FINANCIAL ASSISTANCE.—An organization that was awarded or entered into a covered grant, contract, or cooperative agreement may apply for a renewal of the grant, contract, or agreement under the terms and conditions described in section 32(g) of the Small Business Act (15 U.S.C. 657b(g)) (as added by this Act).

TITLE V—PROGRAM FOR INVESTMENT IN MICROENTREPRENEURS

SEC. 501. PRIME REAUTHORIZATION.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating sections 37 through 44 as sections 38 through 45, respectively; and

(2) by inserting after section 36 the following:

''SEC. 37. PROGRAM FOR INVESTMENT IN MICROENTREPRENEURS.

''(a) DEFINITIONS.—In this section:

''(1) ASSOCIATE ADMINISTRATOR.—The term 'Associate Administrator' means the Associate Administrator for Entrepreneurial Development of the Administration.

''(2) CAPACITY BUILDING SERVICES.—The term 'capacity building services' means services provided to an organization that is, or that is in the process of becoming, a microenterprise development organization or program, for the purpose of enhancing the ability of the organization to provide training and services to disadvantaged entrepreneurs.

''(3) COLLABORATIVE.—The term 'collaborative' means 2 or more nonprofit entities that agree to act jointly as a qualified organization under this section.

''(4) DISADVANTAGED ENTREPRENEUR.—The term 'disadvantaged entrepreneur' means a microentrepreneur that—

''(A) is a low-income person;

''(B) is a very low-income person; or

''(C) lacks adequate access to capital or other resources essential for business success, or is economically disadvantaged, as determined by the Administrator.

''(5) DISADVANTAGED NATIVE AMERICAN ENTREPRENEUR.—The term 'disadvantaged Native American entrepreneur' means a disadvantaged entrepreneur who is also a member of an Indian Tribe.

''(6) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e).

''(7) INTERMEDIARY.—The term 'intermediary' means a private, nonprofit entity that seeks to serve microenterprise development organizations and programs, as authorized under subsection (d).

''(8) LOW-INCOME PERSON.—The term 'low-income person' means a person having an income, adjusted for family size, of not more than—

''(A) for metropolitan areas, 80 percent of the area median income; and

''(B) for nonmetropolitan areas, the greater of—

''(i) 80 percent of the area median income; or

''(ii) 80 percent of the statewide nonmetropolitan area median income.

''(9) MICROENTREPRENEUR.—The term 'microentrepreneur' means the owner or developer of a microenterprise.

''(10) MICROENTERPRISE.—The term 'microenterprise' means a sole proprietorship, partnership, or corporation that—

''(A) has not more than 4 employees; and

''(B) generally lacks access to conventional loans, equity, or other banking services.

''(11) MICROENTERPRISE DEVELOPMENT ORGANIZATION OR PROGRAM.—The term 'microenterprise development organization or program' means a nonprofit entity, or a program administered by such an entity, including community development corporations or other nonprofit development organizations and social service organizations, that provides services to disadvantaged entrepreneurs.

''(12) TRAINING AND TECHNICAL ASSISTANCE.—The term 'training and technical assistance' means services and support provided to disadvantaged entrepreneurs, such as assistance for the purpose of enhancing business planning, marketing, management, financial management skills, and assistance for the purpose of accessing financial services.

''(13) QUALIFIED ORGANIZATION.—The term 'qualified organization' means—

''(A) a nonprofit microenterprise development organization or program (or a group or collaborative thereof) that has a demonstrated record of delivering microenterprise services to disadvantaged entrepreneurs;

''(B) an intermediary;

''(C) a microenterprise development organization or program that is—

''(i) accountable to a local community; and

''(ii) working in conjunction with a State or local government or Indian tribe; or

''(D) an Indian tribe acting on its own, if the Indian tribe certifies that no private organization or program referred to in this paragraph exists within its jurisdiction.

''(14) VERY LOW-INCOME PERSON.—The term 'very low-income person' means an individual having an income, adjusted for family size, of not more than 150 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section).

''(b) ESTABLISHMENT OF PROGRAM.—The Associate Administrator shall establish a microenterprise training and technical assistance and capacity building services grant program to provide grants to qualified organizations in accordance with this section.

''(c) USES OF ASSISTANCE.—A qualified organization shall use a grant made under this section—

''(1) to provide training and technical assistance to disadvantaged entrepreneurs;

''(2) to provide training and technical assistance and capacity building services to microenterprise development organizations and programs and groups of such organizations and programs to assist such organizations and programs in developing microenterprise training and services;

''(3) to aid in researching and developing the best practices in the field of microenterprise and training and technical assistance programs for disadvantaged entrepreneurs;

''(4) to provide training and technical assistance to disadvantaged Native American entrepreneurs and prospective disadvantaged Native American entrepreneurs; and

''(5) for such other activities as the Associate Administrator determines are consistent with the purposes of this section.

''(d) ALLOCATION OF GRANTS; SUBGRANTS.—

''(1) ALLOCATION OF GRANTS.—

''(A) IN GENERAL.—The Associate Administrator shall allocate assistance from the Administration under this section to ensure that—

''(i) not less than 75 percent of amounts made available to the Administrator for grants under this section are used for activities described in subsection (c)(1); and

''(ii) not less than 15 percent of amounts made available to the Administrator for grants under this section are used for activities described in subsection (c)(2).

''(B) LIMIT ON INDIVIDUAL ASSISTANCE.—No single person may receive more than 10 percent of the total amounts made available for grants under this section for a single fiscal year.

''(2) TARGETED ASSISTANCE.—The Associate Administrator shall ensure that not less than 50 percent of the total amounts made available for grants under this section are used to benefit very low-income persons, including very low-income persons residing on Indian reservations.

''(3) SUBGRANTS AUTHORIZED.—

''(A) IN GENERAL.—A qualified organization receiving a grant under this section may provide subgrants using that grant to qualified organizations that are small or emerging microenterprises and programs, subject to such rules and regulations as the Associate Administrator determines are appropriate.

''(B) LIMIT ON ADMINISTRATIVE EXPENSES.—Not more than 7.5 percent of the amount received by a qualified organization under a grant under this section may be used for administrative expenses in connection with the making of subgrants under subparagraph (A).

''(4) DIVERSITY.—In making grants under this section, the Associate Administrator shall ensure that grant recipients include

both large and small microenterprise organizations that serve urban, rural, and Indian tribal communities and diverse populations.

''(5) PROHIBITION ON PREFERENTIAL CONSIDERATION OF CERTAIN ADMINISTRATION PROGRAM PARTICIPANTS.—In making grants under this section, the Associate Administrator shall ensure that any application made by a qualified organization that is a participant in the program established under section 7(m) does not receive preferential consideration over applications from other qualified organizations that are not participants in the program.

''(e) FEDERAL SHARE.—

''(1) IN GENERAL.—A qualified organization that receives a grant under this section shall provide non-Federal contributions to carry out the activities described in subsection (c) in an amount equal to not less than 50 percent of the amount of the grant received under this section.

''(2) SOURCES OF NON-FEDERAL SHARE.—The non-Federal share of the cost of a project using a grant under this section may be in the form of fees, grants, gifts, funds from loan sources, or in-kind resources of an applicant from public or private sources.

''(3) EXCEPTION.—

''(A) IN GENERAL.—If the Associate Administrator determines that an applicant for assistance under this section has severe constraints on available sources of non-Federal funds, the Associate Administrator may reduce or eliminate the requirement under paragraph (1).

''(B) LIMITATION.—Not more than 10 percent of the total funds made available from the Administration in any fiscal year to carry out this section may be excepted under subparagraph (A) from the requirement under paragraph (1).

''(f) APPLICATIONS FOR ASSISTANCE.—An application for a grant under this section shall be submitted in such form and in accordance with such procedures as the Associate Administrator shall establish.

''(g) RECORDKEEPING AND REPORTING.—

''(1) IN GENERAL.—Each qualified organization that receives a grant under this section shall—

''(A) submit to the Administration not less frequently than once every 18-month period, financial statements audited by an independent certified public accountant;

''(B) submit an annual report to the Administration on the activities of the qualified organization; and

''(C) keep such records as the Associate Administrator determines are necessary to disclose the manner in which amounts made available under a grant under this section are used.

''(2) ACCESS.—Upon the request of the Associate Administrator, the Associate Administrator shall have access to any record of any qualified organization that receives a grant under this section, for the purpose of determining compliance with this section.

''(3) DATA COLLECTION.—Each qualified organization that receives a grant under this section shall collect information relating to, as applicable—

''(A) the number of individuals counseled or trained by the organization;

''(B) the number of hours of counseling provided by the organization;

''(C) the number of startup small business concerns formed with the assistance of the organization;

''(D) the number of small business concerns expanded with the assistance of the organization;

''(E) the number of low-income individuals counseled or trained by the organization; and

''(F) the number of very low-income individuals counseled or trained by the organization.

''(h) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to the Administrator $15,000,000 for each of fiscal years 2010 through 2012 to carry out this section, which shall remain available until expended.

''(2) CERTAIN PROGRAMS.—In addition to the amount authorized under paragraph (1), there are authorized to be appropriated to the Administrator $2,000,000 for each of fiscal years 2010 through 2012 to carry out subsection (c)(4), which shall remain available until expended.''.

SEC. 502. CONFORMING REPEAL AND AMENDMENTS.

(a) CONFORMING REPEAL.—Subtitle C of title I of the Riegle Community Development and Regulatory Improvement Act of 1994 (15 U.S.C. 6901 et seq.) is repealed.

(b) CONFORMING AMENDMENTS.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) in section 38(d) (15 U.S.C. 657i(d)), as so redesignated, by striking ''section 43'' and inserting ''section 44'';

(2) in section 41(d) (15 U.S.C. 657l(d)), as so redesignated, by striking ''section 43'' and inserting ''section 44''; and

(3) in section 42(b) (15 U.S.C. 657m(b)), as so redesignated, by striking ''section 43'' and inserting ''section 44''.

SEC. 503. REFERENCES.

All references in Federal law, other than section 504 of this Act, to the ''Program for Investment in Microentrepreneurs Act of 1999'' or the ''PRIME Act'' shall be deemed to be references to section 37 of the Small Business Act, as added by this Act.

SEC. 504. RULE OF CONSTRUCTION.

Nothing in this title or the amendments made by this title shall affect any grant or assistance provided under the Program for Investment in Microentrepreneurs Act of 1999 (15 U.S.C. 6901 et seq.), before the date of enactment of this Act, and any such grant or assistance shall be subject to the Program for Investment in Microentrepreneurs Act of 1999, as in effect on the day before the date of enactment of this Act.

TITLE VI—OTHER PROVISIONS

SEC. 601. INSTITUTIONS OF HIGHER EDUCATION.

(a) IN GENERAL.—Section 21(a)(1) of the Small Business Act (15 U.S.C. 648(a)(1)) is amended by striking '': *Provided*, That'' and all that follows through ''on such date.'' and inserting the following: ''. On and after December 31, 2010, the Administration may only make a grant under this paragraph to an applicant that is an institution of higher education, as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) that is accredited (and not merely in preaccreditation status) by a nationally recognized accrediting agency or association, recognized by the Secretary of Education for such purpose in accordance with section 496 of that Act (20 U.S.C. 1099b), or to a women's business center operating pursuant to section 29 as a small business development center, unless the applicant was receiving financial assistance (including a contract or cooperative agreement) on December 31, 2010.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on December 31, 2010.

SEC. 602. HEALTH INSURANCE OPTIONS INFORMATION FOR SMALL BUSINESS CONCERNS.

(a) DEFINITIONS.—In this section—

(1) the term ''grant program'' means the small business health insurance information grant program established under subsection (b)(1); and

(2) the term ''resource partner'' means—

(A) the association of small business development centers authorized to be established under section 21(a)(3)(A) of the Small Business Act (15 U.S.C. 648(a)(3)(A));

(B) the Association of Women's Business Centers;

(C) the Service Corps of Retired Executives authorized by section 8(b)(1)(B) of the Small Business Act (15 U.S.C. 637(b)(1)(B)); and

(D) 1 veterans business center (as that term is used in section 32(g) of the Small Business Act (15 U.S.C. 657b(g)), as added by this Act), as determined by the Associate Administrator for Entrepreneurial Development.

(b) SMALL BUSINESS HEALTH INSURANCE INFORMATION PROGRAM.—

(1) PROGRAM ESTABLISHED.—The Administrator, acting through the Associate Administrator for Entrepreneurial Development, shall establish a program to make grants to resource partners to provide neutral and objective information and educational materials regarding health insurance options, including coverage options within the small group market, to small business concerns.

(2) GRANT RECIPIENTS.—The Associate Administrator for Entrepreneurial Development shall make 1 grant to each of the resource partners.

(3) GRANT AMOUNTS.—The grants made under this section shall—

(A) be made from funds appropriated to the Administrator to carry out the activities of the Office of Entrepreneurial Development; and

(B) not exceed a total amount of $5,000,000.

(4) CONTRACT.—As a condition of receiving a grant under this section, each resource partner shall agree, by contract with the Administration—

(A) to begin to use the funds in accordance with paragraph (5) not later than 1 year after the date on which the resource partner receives the grant; and

(B) to return any funds that have not been used, if the Administrator determines that the resource partner is not carrying out the grant program activities under paragraph (5)(A).

(5) USE OF FUNDS.—

(A) GRANT PROGRAM ACTIVITIES.—A resource partner shall use funds provided under the grant program to create, in consultation with the Associate Administrator for Entrepreneurial Development of the Administration—

(i) an online training program;

(ii) an online repository of health insurance information relevant to small business concerns;

(iii) a counseling curriculum that can be used in the physical location of the resource partner; and

(iv) materials containing relevant information that can be disbursed to owners of small business concerns throughout the country.

(B) CONTENT OF MATERIALS.—

(i) IN GENERAL.—In creating materials under the grant program, a resource partner shall evaluate and incorporate relevant portions of existing informational materials regarding health insurance options, including materials and resources developed by the National Association of Insurance Commissioners, the Kaiser Family Foundation, and the Healthcare Leadership Council.

(ii) HEALTH INSURANCE OPTIONS.—In incorporating information regarding health insurance options under clause (i), a resource partner shall provide neutral and objective information regarding health insurance options in the geographic area served by the resource partner, including traditional employer sponsored health insurance for the group insurance market, such as the health insurance options described in section 2791 of

the Public Health Services Act (42 U.S.C. 300gg–91) or section 125 of the Internal Revenue Code of 1986, and Federal and State health insurance programs.

(c) REVIEW AND REPORT.—

(1) REVIEW OF GRANT PROGRAM.—The Associate Administrator for Entrepreneurial Development shall conduct a review of the effectiveness of the grant program.

(2) REPORT.—Not later than 2 years after the date on which all grants under the grant program are disbursed, the Associate Administrator for Entrepreneurial Development shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the results of the review under paragraph (1).

SEC. 603. NATIONAL SMALL BUSINESS DEVELOPMENT CENTER ADVISORY BOARD.

(a) IN GENERAL.—Section 21(i)(1) of the Small Business Act (15 U.S.C. 648(i)(1)) is amended—

(1) in the first sentence, by striking ''nine members'' and inserting ''10 members'';

(2) in the second sentence, by striking ''six'' and inserting ''the members who are not from universities or their affiliates'';

(3) by striking the third sentence; and

(4) in the fourth sentence, by inserting ''not less than'' before ''one-third''.

(b) INCUMBENTS.—An individual serving as a member of the Board on the date of enactment of this Act may continue to serve on the Board until the end of the term of the member under section 21(i)(1) of the Small Business Act (15 U.S.C. 648(i)(1)), as in effect on the day before such date of enactment.

SEC. 604. PRIVACY REQUIREMENTS FOR SCORE CHAPTERS.

Section 8 of the Small Business Act (15 U.S.C. 637) is amended by striking subsection (c) and inserting the following:

''(c) PRIVACY REQUIREMENTS.—

''(1) IN GENERAL.—A chapter of the SCORE program authorized by subsection (b)(1) or an agent of such a chapter may not disclose the name, address, or telephone number of any individual or small business concern receiving assistance from that chapter or agent without the consent of such individual or small business concern, unless—

''(A) the Administrator is ordered to make such a disclosure by a court in any civil or criminal enforcement action initiated by a Federal or State agency; or

''(B) the Administrator determines such a disclosure to be necessary for the purpose of conducting a financial audit of a chapter of the SCORE program authorized by subsection (b)(1), in which case disclosure shall be limited to the information necessary for such audit.

''(2) ADMINISTRATOR USE OF INFORMATION.—This subsection shall not—

''(A) restrict the access of the Administrator to program activity data; or

''(B) prevent the Administrator from using client information to conduct client surveys.

''(3) REGULATIONS.—

''(A) IN GENERAL.—The Administrator shall issue regulations to establish standards—

''(i) for disclosures with respect to financial audits under paragraph (1)(B); and

''(ii) for client surveys under paragraph (2)(B), including standards for oversight of such surveys and for dissemination and use of client information.

''(B) MAXIMUM PRIVACY PROTECTION.—Regulations under this paragraph shall, to the extent practicable, provide for the maximum amount of privacy protection.

''(C) INSPECTOR GENERAL.—Until the effective date of regulations under this paragraph, any client survey and the use of such information shall be approved by the Inspector General of the Administration who shall include such approval in the semi-annual report of the Inspector General.''.

SEC. 605. NATIONAL SMALL BUSINESS SUMMIT.

(a) IN GENERAL.—Not later than December 31, 2012, the President shall convene a National Small Business Summit to examine the present conditions and future of the community of small business concerns in the United States. The summit shall include owners of small business concerns, representatives of small business groups, labor, academia, the Federal Government, State governments, Indian tribes, Federal research and development agencies, and nonprofit policy groups concerned with the issues of small business concerns.

(b) REPORT.—Not later than 90 days after the date of the conclusion of the summit convened under subsection (a), the President shall issue a report on the results of the summit. The report shall identify key challenges and make recommendations for promoting entrepreneurship and the growth of small business concerns.

SEC. 606. SCORE PROGRAM.

(a) IN GENERAL.—Section 8(b)(1)(B) of the Small Business Act (15 U.S.C. 637(b)(1)(B)) is amended by striking ''a Service Corps of Retired Executives (SCORE)'' and inserting ''the SCORE''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(A) in section 7(m)(3)(A)(i)(VIII), by striking ''Service Corps of Retired Executives'' and inserting ''SCORE''; and

(B) in section 33(b)(2), by striking ''Service Corps of Retired Executives'' and inserting ''SCORE''.

(2) OTHER LAW.—Section 337(d)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6307(d)(2)) is amended by striking ''Service Corps of Retired Executives (SCORE)'' and inserting ''SCORE''.

(c) REFERENCES.—Any reference to the Service Corps of Retired Executives established under section 8(b)(1)(B) of the Small Business Act (15 U.S.C. 637(b)(1)(B)), as in effect on the day before the date of enactment of this Act, in any law, rule, regulation, certificate, directive, instruction, or other official paper shall be considered to refer to the SCORE established under section 8(b)(1)(B) of the Small Business Act, as amended by this Act.

SEC. 607. ASSISTANCE TO OUT-OF-STATE SMALL BUSINESSES.

Section 21(b)(3) of the Small Business Act (15 U.S.C. 648(b)(3)) is amended—

(1) by striking ''(3) At the discretion'' and inserting the following:

''(3) ASSISTANCE TO OUT-OF-STATE SMALL BUSINESSES.—

''(A) IN GENERAL.—At the discretion''; and

(2) by adding at the end the following:

''(B) DISASTER RECOVERY ASSISTANCE.—

''(i) IN GENERAL.—At the discretion of the Administrator, the Administrator may authorize a small business development center to provide assistance, as described in subsection (c), to small business concerns located outside of the State, without regard to geographic proximity, if the small business concerns are located in an area for which the President has declared a major disaster, as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122), during the period of the declaration.

''(ii) CONTINUITY OF SERVICES.—A small business development center that provides counselors to an area described in clause (i) shall, to the maximum extent practicable, ensure continuity of services in any State in which the small business development center otherwise provides services.

''(iii) ACCESS TO DISASTER RECOVERY FACILITIES.—For purposes of this subparagraph, the Administrator shall, to the maximum extent practicable, permit the personnel of a small business development center to use any site or facility designated by the Administrator for use to provide disaster recovery assistance.''.

SEC. 608. SMALL BUSINESS DEVELOPMENT CENTERS.

(a) PORTABILITY GRANTS.—Section 21(a)(4)(C)(viii) of the Small Business Act (15 U.S.C. 648(a)(4)(C)(viii)) is amended—

(1) in the first sentence—

(A) by striking ''From the funds appropriated pursuant to clause (vii)'' and inserting ''Of the amounts made available to carry out this subparagraph in each fiscal year''; and

(B) by striking ''as a result of a business or government facility down sizing or closing, which has resulted in the loss of jobs or small business instability'' and inserting ''due to events that have resulted or will result in, the downsizing or closing of a business or government facility''; and

(2) by adding at the end ''The Administrator may make a grant under this clause that exceeds $100,000 to accommodate extraordinary events that the Administrator determines have had a catastrophic impact on small business concerns in a community.''.

(b) PURPOSES.—Section 21(a)(1) of the Small Business Act (15 U.S.C. 648(a)(1)) is amended in the first sentence by adding ''regulatory compliance and'' after ''counseling concerning''.

SEC. 609. EVALUATION OF PILOT PROGRAMS.

(a) IN GENERAL.—Not later than 30 months after the date of disbursement of the first grant under a covered pilot program, the Comptroller General of the United States shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report evaluating the covered pilot program, including recommendations, if any, on possible improvements or modifications to the covered pilot program, including the feasibility of extending the covered pilot program to all small business development centers.

(b) DEFINITION OF COVERED PILOT PROGRAM.—In this section, the term ''covered pilot program'' means a pilot program relating to small business development centers established under this Act or an amendment made by this Act.

Ms. SNOWE. Mr. President, as Ranking Member of the Senate Committee on Small Business and Entrepreneurship, I rise today to join with Senator LANDRIEU to introduce the Entrepreneurial Development Act of 2009, a bill that would reauthorize and improve the U.S. Small Business Administration's, SBA, Entrepreneurial Development programs. I have long fought to expand the power and reach of the SBA's entrepreneurial development tools, which are used by millions of current and aspiring entrepreneurs and small businesses across the U.S. These programs demonstrate how Congress can play a positive role in enhancing private-sector financing for start-up companies. We must continue to strengthen these core SBA programs because they have proven invaluable in aiding the efforts and dreams of America's entrepreneurs, and in bolstering small business job creation.

The bill that I am cosponsoring today is the product of the type of bipartisan, consensus work product for which the Senate Small Business Committee has come to be known. The provisions contained in this legislation are a compilation of ideas and initiatives put forward by myself, Senator LANDRIEU, and other Committee members. Much of the language in the Entrepreneurial Development Act of 2009 was contained in S. 2920, the SBA Reauthorization and Improvements Act in the 110th Congress, the individual provisions of which were each passed unanimously by the Senate Small Business Committee during the 110th Congress. Unfortunately, that bipartisan bill never passed the Senate.

This act, among other things, builds upon the aforementioned successes of SBA's Entrepreneurial Development programs, which collectively created or retained 200,000 jobs in 2008 alone.

Since their inception, Small Business Development Centers, SBDCs, have been essential in the delivery of management and technical counseling assistance and educational programs to prospective and existing small business owners. The SBDC program has served over 11 million clients with new business starts, sustainability programs for struggling firms, and expansion plans for growth firms. For every dollar spent on the SBDC program, approximately $2.87 in tax revenue is generated.

According to a recent report conducted at Mississippi State University, as a direct result of its counseling programs, SBDC clients generated approximately $7 billion in sales and created over 73,000 new jobs in 2006. Therefore, it is imperative that in such troubling economic times we ensure that this program has the resources necessary to successfully aid small businesses. Through this legislation, which increases the SBDC program's authorization to $160 million by fiscal year 2012, this program will be in a better position to continue helping entrepreneurs succeed.

The Women's Business Center, WBC, program, established by Congress in 1988, promotes the growth of women-owned businesses through business training and technical assistance, and provides access to credit and capital, federal contracts, and international trade opportunities. The WBC program served more than 159,000 clients across the country last year, providing help with financial management, procurement training, marketing and technical assistance. WBCs also provide specialized programs that include mentoring in various languages, Internet training, issues facing displaced workers and rural home-based entrepreneurs.

Our legislation builds on our commitment to providing assistance to women entrepreneurs. It directs the SBA's Office of Women's Business Ownership to develop programs to bolster the growth of women-owned small businesses by providing support for business operations, manufacturing, technology, finance, Federal Government contracting, and international trade.

The bill also makes substantial improvements to the Women's Business Center program, which created nearly 9,000 jobs in the last fiscal year, including an expansion of the types of entities that are eligible to host WBCs to economic development organizations, state-chartered development organizations, and public or private colleges and universities. Finally, the bill directs the SBA to provide a minimum of $150,000 in funding annually to all new WBCs that are in their first 5 years of operation, allowing new centers to become fully established before they have to compete for federal funding.

The bill also reauthorizes SCORE, a non-profit association that matches business-management counselors with small business clients. SCORE volunteer counselors share their management and technical expertise with both existing and prospective small business owners. With its 10,500 member volunteer association, sponsored by the SBA, and more than 389 service delivery points and a website, SCORE provides counseling to small businesses nationwide. The national SCORE organization delivers its services of business and technical assistance through a national network of chapters, an Internet counseling site, partnerships with SBA, the SBDCs and WBCs, and with the public and private sectors. In 2008, SCORE created or retained 25,000 jobs, and this act will help improve this program by raising the authorization level to $13 million in fiscal year 2012.

In addition to reauthorizing SBA's ED programs and increasing their funding levels, this bill also addresses the crisis small businesses face when it comes to securing quality, affordable health insurance. Health insurance costs have increased by 89 percent since 2000. This has led to a disturbing trend of fewer and fewer small businesses being able to offer health insurance to their employees.

A key provision in this bill would establish a grant program to provide information, counseling, and educational materials to small businesses, through the well-established national framework of the SBA's technical assistance partners including SBDCs, WBC, Veteran's Business Centers, and SCORE.

Research conducted by the non-partisan Healthcare Leadership Council found that with a short educational and counseling session, small businesses were up to 33 percent more likely to offer health insurance to their employees. It is therefore vital that we provide the SBA's resource partners with the resources necessary to give small businesses the critical health care education they need to navigate the complex insurance market.

The SBA's entrepreneurial development programs provide tremendous value for a relatively small investment. I am committed to ensuring that Americans have the necessary resources to start, grow and develop a business. I believe that it is our duty to do everything possible to sustain prosperity and job creation throughout the U.S. I urge my colleagues to support this vital piece of legislation.

By Mr. DODD:

S. 1231. A bill to create or adopt, and implement, rigorous and voluntary American education content standards in mathematics and science covering kindergarten through grade 12, to provide for the assessment of student proficiency benchmarked against such standards, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to introduce The Standards to Provide Educational Achievement for Kids, SPEAK, Act, a bill designed to provide incentives to states to begin holding every child in America to the same high standards. At its core, SPEAK will adopt and implement voluntary core American education content standards in math and science while incentivizing states to adopt them.

America's leadership, economic, and national security rest on our commitment to educate and prepare our youth to succeed in a global economy. The key to succeeding in this endeavor is to have high expectations for all American students as they progress through our Nation's schools.

Currently there are 50 different sets of academic standards, 50 State assessments, and 50 definitions of proficiency under the No Child Left Behind Act. As a result of varied standards, exams and proficiency levels, America's highly mobile student-aged population moves through the Nation's schools gaining widely varying levels of knowledge, skills and preparedness. Yet, in order for the U.S. to compete in a global economy, we must strengthen our educational expectations for all American children—we must compete as one Nation.

Recent international comparisons show that American students have significant shortcomings in math and science. Many lack the basic skills required for college or the workplace. This affects our economic and national security; it holds us back in the global marketplace and risks ceding our competitive edge. This is unacceptable.

America was founded on the notion of ensuring equity and opportunity for all. And yet, we risk both when we allow different students in different states to graduate from high school with very different educations. We live in a nation with an unacceptably high high school dropout rate. We live in a nation where 8th graders in some states score more than 30 points higher on tests of basic science knowledge than students in other states. I ask my colleagues today what equality of opportunity we have under such circumstances.

This is where American standards come in. Voluntary, core American standards in math and science are an important step in ensuring that all American students are given the same opportunity to learn to a high standard no matter where they reside. They will allow for meaningful comparisons of student academic achievement across states, help ensure that American students are academically qualified to enter college or training for the civilian or military workforce, and help ensure that students are better prepared to compete in the global marketplace. Uniform standards are a first step in maintaining America's competitive and national security edge.

While I understand that education is, after all, a state endeavor, we cannot ignore that at the end of the day America competes as one country on the global marketplace. This does not mean that I am asking states to cede their authority in education. What the bill simply proposes is that we use the convening power of the Federal Government to incentivize efforts to create a core set of common standards.

I would like to take a moment to recognize the recent remarkable achievement of the National Governors Association and the Council of Chief State School Officers in partnership with Achieve, Inc, ACT, and the College Board. Just last week they announced that 49 States and territories have joined the Common Core State Standards Initiative and have committed to a process to develop common standards in English language arts and mathematics. They have made a commitment to evidence-based and internationally benchmarked standards, which are scheduled to be developed later this year. This effort is outstanding. Just 2 years ago, when I introduced one of the first bills in the Senate on standards, this type of effort would have been unthinkable. Now, there is strong momentum behind providing all students across the country with competitive and consistent standards.

The SPEAK Act, provides flexibility in the creation or adoption of American standards, understanding that there are effective efforts underway that could be integrated into the program of Federal incentives that this bill would provide.

The SPEAK Act will task the National Assessment Governing Board with creating or adopting rigorous and voluntary core American education content standards in math and science for grades K–12. It will require that the standards be anchored in the National Assessment of Educational Progress' math and science frameworks. It will also ensure that such standards are internationally competitive and comparable to the best standards in the world, similar to the outline created for the standards being developed through the Common Core State Standards Initiative.

States that do participate, while required to adopt the American standards, will be given the flexibility to make them their own. They will have the option to add additional content requirements, they will have final say in how coursework is sequenced, and, ultimately, States, and districts will still be the ones developing the curriculum, choosing the textbooks and administering the tests. The standards provided for under this legislation will simply serve as a common core.

The SPEAK Act will develop rigorous achievement levels. It will ensure that varying developmental levels of students are taken into account in the development of such standards. It will provide for periodic review and update of such standards. It establishes an American Standards Incentive Fund to incentivize states to adopt the standards. Among the benefits of participating is a significant infusion of funds for states to bolster their K–12 data systems.

No one will deny that our Nation is facing difficult economic times. However, there remains a steadfast commitment to improving education for our students, a commitment that includes working to develop voluntary American standards. I applaud states that realize that despite facing difficult budget realities, holding all students to the same, high standards will be what is best for the future of our nation. These States need and deserve incentives and resources to complete this important work.

I should also note that the SPEAK Act has garnered endorsements from businesses, math/science organizations, foundations, and the education community. Through the leadership of Congressman VERNON EHLERS in the House of Representatives it shares not only bicameral, but bipartisan support. Together we have all come together to affect meaningful change in our public schools.

We live in an economy where you can no longer lift, dig or assemble your way to success. Today, you have got to think your way to success so that when public education doesn't work, when we fail to compete as one nation, our entire country gets left behind. Low expectations translate to an America that is less competitive on the world stage. If that happens, we are going to wonder why we didn't do anything about it while we still had time.

Core American standards will set high goals for all students, allow for meaningful comparisons of achievement across states, and help ensure that all of our students are qualified to enter college. At the end of the day, we all want what is best for our country and parents want what is best for their kids. With core standards, America will begin the work of regaining its competitive edge in the global economy. In the life of every student, equality will be made a little more real with reintroduction of this bill, as the skills and knowledge we expect of them are no longer made contingent on where they reside.

I hope that my colleagues will join me in supporting the SPEAK Act. As we start holding our students to the same high standards, I expect that we will be amazed at the excellence that follows.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1231

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Standards to Provide Educational Achievement for Kids Act'' or the ''SPEAK Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Assessing science in the National Assessment of Educational Progress.
Sec. 4. Definitions.
Sec. 5. Voluntary American education content standards; American Standards Incentive Fund.
Sec. 6. Authorization of appropriations.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Throughout the years, educators and policymakers have consistently embraced standards as the mechanism to ensure that every student, no matter what school the student attends, masters the skills and develops the knowledge needed to participate in a global economy.

(2) Recent international comparisons make clear that students in the United States have significant shortcomings in mathematics and science, yet a high level of scientific and mathematics literacy is essential to societal innovations and advancements.

(3) With more than 50 different sets of academic content standards, 50 State academic assessments, and 50 definitions of proficiency under section 1111(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)), there is great variability in the measures, standards, and benchmarks for academic achievement in mathematics and science.

(4) Variation in State standards and the accompanying measures of proficiency make it difficult for parents and teachers to meaningfully gauge how well their children are learning mathematics and science in comparison to their peers internationally or here at home.

(5) The disparity in the rigor of standards across States yield test results that tell the public little about how schools are performing and progressing, as States with low standards or low proficiency requirements may appear to be doing much better than States with more rigorous standards or higher requirements for proficiency.

(6) As a result, the United States' highly mobile student-aged population moves through the Nation's schools gaining widely varying levels of knowledge, skills, and preparedness.

(7) In order for the United States to compete in a global economy, the country needs to strengthen its educational expectations for all children.

(8) To compete, the people of the United States must compare themselves against international benchmarks.

(9) Grounded in a real world analysis and international comparisons of what students

need to succeed in work and college, rigorous and voluntary core American education content standards will keep the United States economically competitive and ensure that the children of the United States are given the same opportunity to learn to a high standard no matter where they reside.

(10) Rigorous and voluntary core American education content standards in mathematics and science will enable students to succeed in academic settings across States while ensuring an American edge in the global marketplace.

SEC. 3. ASSESSING SCIENCE IN THE NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.

(a) NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS AUTHORIZATION ACT.—Section 303 of the National Assessment of Educational Progress Authorization Act (20 U.S.C. 9622) is amended—

(1) in subsection (a), by striking '', State assessments,'' and inserting ''and State assessments in reading, mathematics, and science'';

(2) in subsection (b)—

(A) in paragraph (1), by inserting ''science,'' after ''mathematics,'';

(B) in paragraph (2)—

(i) in subparagraph (B), by striking ''reading and mathematics'' and inserting ''reading, mathematics, and science'';

(ii) in subparagraph (C), by striking ''reading and mathematics'' and inserting ''reading, mathematics, and science'';

(iii) in subparagraph (D), by striking ''science,''; and

(iv) in subparagraph (E), by striking ''reading and mathematics'' and inserting ''reading, mathematics, and science'';

(C) in paragraph (3)—

(i) in subparagraph (A), by striking ''reading and mathematics'' each place the term occurs and inserting ''reading, mathematics, and science''; and

(ii) in subparagraph (C)(ii), by striking ''reading and mathematics'' and inserting ''reading, mathematics, and science''; and

(D) in paragraph (4)(B), by striking '', require, or influence'' and inserting ''or require'';

(3) in subsection (d)(3), by striking ''reading and mathematics'' each place the term occurs and inserting ''reading, mathematics, and science''; and

(4) in subsection (f)(1)(B)(v), by striking ''and mathematical knowledge'' and inserting '', mathematical knowledge, and science knowledge''.

(b) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) is amended—

(1) in section 1111(c)(2) (20 U.S.C. 6311(c)(2))—

(A) by inserting ''(and, for science, beginning with the 2010–2011 school year)'' after ''2002–2003''; and

(B) by striking ''reading and mathematics'' and inserting ''reading, mathematics, and science''; and

(2) in section 1112(b)(1)(F) (20 U.S.C. 6312(b)(1)(F)), by striking ''reading and mathematics'' and inserting ''reading, mathematics, and science''.

SEC. 4. DEFINITIONS.

Section 304 of the National Assessment of Educational Progress Authorization Act (20 U.S.C. 9623) is amended—

(1) in the matter preceding paragraph (1), by striking ''In this title:'' and inserting ''Except as otherwise provided, in this title:'';

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

''(2) SECRETARY.—The term 'Secretary' means the Secretary of Education.''.

SEC. 5. VOLUNTARY AMERICAN EDUCATION CONTENT STANDARDS; AMERICAN STANDARDS INCENTIVE FUND.

The National Assessment of Educational Progress Authorization Act (20 U.S.C. 9621 et seq.) is amended—

(1) by redesignating sections 304 (as amended by section 4) and 305 as sections 306 and 307, respectively; and

(2) by inserting after section 303 the following:

''SEC. 304. CREATION OR ADOPTION OF VOLUNTARY AMERICAN EDUCATION CONTENT STANDARDS.

''(a) IN GENERAL.—Not later than 3 years after the date of enactment of the Standards to Provide Educational Achievement for Kids Act and from amounts appropriated under section 307(a)(3) for a fiscal year, the Assessment Board shall create or adopt voluntary American education content standards in mathematics and science covering kindergarten through grade 12.

''(b) DUTIES.—The Assessment Board shall implement subsection (a) by carrying out the following duties:

''(1) Create or adopt voluntary American education content standards for mathematics and science covering kindergarten through grade 12 that reflect a common core of what students in the United States should know and be able to do to compete in a global economy.

''(2) Anchor the voluntary American education content standards based on the mathematics and science frameworks and the achievement levels under section 303(e) of the National Assessment of Educational Progress for grades 4, 8, and 12.

''(3) Ensure that the voluntary American education content standards reflect international standards of excellence and the latest developments in the fields of mathematics and science.

''(4) Review existing standards in mathematics and science developed by professional organizations.

''(5) Review State standards in mathematics and science as of the date of enactment of the Standards to Provide Educational Achievement for Kids Act and consult and work with entities that are developing, or have already developed, such State standards.

''(6) Review the reports, views, and analyses of a broad spectrum of experts, including classroom educators, and of the public, as such reports, views, and analyses relate to mathematics and science education, including—

''(A) reviews of blue ribbon reports;

''(B) exemplary practices in the field; and

''(C) recent reports by government agencies and professional organizations.

''(7) Review scientifically rigorous studies that examine the relationship between—

''(A) the sequences of secondary school-level mathematics and science courses; and

''(B) student achievement.

''(8) Ensure that steps are taken in the development of the voluntary American education content standards to recognize the needs of students who receive special education and related services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) and of students who are limited English proficient (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)).

''(9) Solicit input from State and local representative organizations, mathematics and science organizations (including mathematics and science teacher organizations), institutions of higher education, higher education organizations, business organizations, and other appropriate organizations.

''(10) Ensure that the voluntary American education content standards reflect what students will be required to know and be able to do after secondary school graduation to be academically qualified to enter an institution of higher education or training for the civilian or military workforce.

''(11) Widely disseminate the voluntary American education content standards for public review and comment before final adoption.

''(12) Provide for continuing review of the voluntary American education content standards not less often than once every 10 years, which review—

''(A) shall solicit input from organizations and entities, including—

''(i) 1 or more professional mathematics or science organizations, including mathematics or science educator organizations;

''(ii) the State educational agencies that have received American Standards Incentive Fund grants under section 305 during the period covered by the review; and

''(iii) other organizations and entities, as determined appropriate by the Assessment Board; and

''(B) shall address issues including—

''(i) whether the voluntary American education content standards continue to reflect international standards of excellence and the latest developments in the fields of mathematics and science; and

''(ii) whether the voluntary American education content standards continue to reflect what students are required to know and be able to do in science and mathematics after graduation from secondary school to be academically qualified to enter an institution of higher education or training for the civilian or military workforce, as of the date of the review.

''SEC. 305. THE AMERICAN STANDARDS INCENTIVE FUND.

''(a) DEFINITIONS.—In this section:

''(1) IN GENERAL.—The terms 'elementary school', 'local educational agency', 'professional development', 'secondary school', 'State', and 'State educational agency' have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

''(2) ACADEMIC CONTENT STANDARDS.—The term 'academic content standards' means the challenging academic content standards described in section 1111(b)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(1)).

''(3) LEVELS OF ACHIEVEMENT.—The term 'levels of achievement' means the State levels of achievement under subclauses (II) and (III) of section 1111(b)(1)(D)(ii) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(1)(D)(ii)(II), (III)).

''(4) STATE ACADEMIC ASSESSMENTS.—The term 'State academic assessments' means the academic assessments for a State described in section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)).

''(b) ESTABLISHMENT OF FUND.—From amounts appropriated under section 307(a)(4) for a fiscal year, the Secretary shall establish and fund the American Standards Incentive Fund to carry out the grant program under subsection (c).

''(c) INCENTIVE GRANT PROGRAM AUTHORIZED.—

''(1) IN GENERAL.—Not later than 12 months after the Assessment Board adopts the voluntary American education content standards under section 304, the Secretary shall use amounts available from the American Standards Incentive Fund to award, on a competitive basis, grants to State educational agencies to enable each State educational agency to adopt the voluntary American education content standards in

mathematics and science as the core of the State's academic content standards in mathematics and science by carrying out the activities described in subsection (f).

''(2) DURATION AND AMOUNT.—A grant under this subsection shall be awarded—

''(A) for a period of not more than 4 years; and

''(B) in an amount that is not more than $4,000,000 over the period of the grant.

''(3) SEA COLLABORATION PERMITTED.—A State educational agency receiving a grant under this subsection may collaborate with another State educational agency receiving a grant under this subsection in carrying out the activities described in subsection (f).

''(d) CORE STANDARDS.—A State educational agency receiving a grant under subsection (c) shall adopt and use the voluntary American education content standards in mathematics and science as the core of the State academic content standards in mathematics and science. The State educational agency may add additional standards to the voluntary American education content standards as part of the State academic content standards in mathematics and science.

''(e) STATE APPLICATION.—A State educational agency desiring to receive a grant under subsection (c) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. The application shall include—

''(1) timelines for carrying out each of the activities described in subsection (f)(1); and

''(2) a description of the activities that the State educational agency will undertake to implement the voluntary American education content standards in mathematics and science adopted under section 304, and the achievement levels in mathematics and science developed under section 303(e) for the national and State assessments of the National Assessment of Educational Progress, at both the State educational agency and local educational agency levels, including any additional activities described in subsection (f)(2).

''(f) USE OF FUNDS.—

''(1) MANDATORY ACTIVITIES.—A State educational agency receiving a grant under subsection (c) shall use grant funds to carry out all of the following:

''(A) Adopt the voluntary American education content standards in mathematics and science as the core of the State's academic content standards in mathematics and science not later than 2 years after the receipt of a grant under subsection (c).

''(B) Align the teacher certification or licensure, pre-service, and professional development requirements of the State to the voluntary American education content standards in mathematics and science not later than 3 years after the receipt of the grant.

''(C) Align the State academic assessments in mathematics and science (or develop new such State academic assessments that are aligned) with the voluntary American education content standards in mathematics and science not later than 4 years after the receipt of the grant.

''(D) Align the State levels of achievement in mathematics and science with the student achievement levels in mathematics and science developed under section 303(e) for the national and State assessments of the National Assessment of Educational Progress not later than 4 years after the receipt of the grant.

''(E) Develop dissemination, technical assistance, and professional development activities for the purpose of educating local educational agencies and schools on what the standards adopted by the State educational agency under this section are and how the standards can be incorporated into classroom instruction.

''(2) PERMISSIVE ACTIVITIES.—A State educational agency receiving a grant under subsection (c) may use the grant funds to carry out, at the local educational agency or State educational agency level, any of the following activities:

''(A) Developing curricula and instructional materials in mathematics or science that are aligned with the voluntary American education content standards in mathematics and science.

''(B) Conducting other activities needed for the implementation of the voluntary American education content standards in mathematics and science.

''(3) PRIORITY.—In awarding grants under subsection (c), the Secretary shall give priority to a State educational agency that will use the grant funds to carry out subparagraph (A) of paragraph (2).

''(g) AWARD BASIS.—In determining the amount of a grant under subsection (c), the Secretary shall take into consideration—

''(1) the extent to which a State's academic content standards, State academic assessments, levels of achievement in mathematics and science, and teacher certification or licensure, pre-service, and professional development requirements, must be revised to align such State standards, assessments, levels, and teacher requirements with the voluntary American education content standards created or adopted under section 304 and the achievement levels in mathematics and science developed under section 303(e); and

''(2) the planned activities described in the application submitted under subsection (e).

''(h) ANNUAL STATE EDUCATIONAL AGENCY REPORTS.—A State educational agency receiving a grant under subsection (c) shall submit an annual report to the Secretary demonstrating the State educational agency's progress in meeting the timelines described in the application under subsection (e)(1).

''(i) GRANTS FOR DOD AND BIA SCHOOLS.—

''(1) DEPARTMENT OF DEFENSE SCHOOLS.—From amounts available from the American Standards Incentive Fund, the Secretary, upon application by the Secretary of Defense, may award grants under subsection (c) to the Secretary of Defense on behalf of elementary schools and secondary schools operated by the Department of Defense to enable the Secretary of Defense to carry out activities similar to the activities described in subsection (f) for the elementary schools and secondary schools operated by the Department of Defense.

''(2) BUREAU OF INDIAN AFFAIRS SCHOOLS.—From amounts available from the American Standards Incentive Fund, the Secretary, in consultation with the Secretary of the Interior, may award grants under subsection (c) to the Bureau of Indian Affairs on behalf of elementary schools and secondary schools operated or funded by the Department of the Interior to enable the Director of the Bureau of Indian Affairs to carry out activities similar to the activities described in subsection (f) for the elementary schools and secondary schools operated or funded by the Department of the Interior.

''(j) STUDY.—Not later than 2 years after the completion of the first 4-year grant cycle for grants under this section, the Commissioner for Education Statistics shall carry out a study comparing the gap between the reported proficiency on State academic assessments and assessments under section 303 for State educational agencies receiving grants under subsection (c), before and after the State adopts the voluntary American education content standards in mathematics and science as the core of the State education content standards in mathematics and science. The study shall—

''(1) include an analysis of, for each State receiving a grant under subsection (c) and for the United States, the gaps in reported proficiency in mathematics and in science before and after the adoption of the voluntary American education content standards, for each grade of students subject to the assessments under section 303; and

''(2) further disaggregate the information described in paragraph (1) by the race, ethnicity, gender, disability status, migrant status, English proficiency, and economically disadvantaged status of the students, except that such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student.

''(k) DATA GRANTS.—

''(1) PROGRAM AUTHORIZED.—

''(A) IN GENERAL.—From amounts appropriated under section 307(a)(4), the Secretary shall award, to each State educational agency that meets the requirements of paragraph (3), a grant to enhance statewide student level longitudinal data systems as those systems relate to the requirements of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.).

''(B) DATA AUDIT SYSTEM.—The State, through the implementation of such enhanced data system, shall—

''(i) ensure that the State has in place a State data audit system to assess data quality, validity, and reliability; and

''(ii) provide guidance, technical assistance, and professional development to local educational agencies to ensure local education officials and educators have the tools, knowledge, and protocol necessary to use the enhanced data system properly, ensure the integrity of the data, and be able to use the data to inform education policy and practice.

''(2) AMOUNT OF GRANT.—A grant awarded to a State educational agency under this subsection shall be in an amount equal to 5 percent of the amount allocated to the State under section 1122 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6332). If the amounts available from the American Standards Incentive Fund are insufficient to pay the full amounts of grants under this paragraph to all State educational agencies that receive a grant under this subsection, then the Secretary shall ratably reduce the amount of all grants under this subsection.

''(3) REQUIREMENTS.—In order to receive a grant under this subsection, a State educational agency shall—

''(A) have received a grant under subsection (c); and

''(B) successfully demonstrate to the Secretary that the State has aligned—

''(i) the State's academic content standards and State academic assessments in mathematics and science, and the State's teacher certification or licensure, pre-service, and professional development requirements, with the voluntary American education content standards in mathematics and science; and

''(ii) the State levels of achievement in mathematics and science for grades 4, 8, and 12, with the achievement levels in mathematics and science developed under section 303(e) for such grades.

''(4) NATURE OF GRANT.—A grant under this subsection to a State educational agency shall be in addition to any grant awarded to the State educational agency under subsection (c).

''(5) LIMIT ON NUMBER OF GRANTS.—In no case shall a State educational agency receive more than 1 grant under this subsection.

''(l) REPORTS TO CONGRESS.—Not later than 2 years after the date of enactment of the Standards to Provide Educational Achievement for Kids Act, and every 2 years thereafter, the Secretary shall report to Congress regarding the status of all grants awarded under this section.

''(m) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to establish a preferred national curriculum or preferred teaching methodology for elementary school or secondary school instruction.

''(n) TIMELINE EXTENSION.—The Secretary may extend the 12-year requirement under section 1111(b)(2)(F) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(F)) by not less than 2 years and by not more than 4 years for a State served by a State educational agency that receives grants under subsections (c) and (k).''.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Section 307(a) of the National Assessment of Educational Progress Authorization Act (as redesignated by section 5(1)) (20 U.S.C. 9624(a)) is amended to read as follows:

''(a) IN GENERAL.—There are authorized to be appropriated—

''(1) to carry out section 302, $8,750,000 for fiscal year 2010 and such sums as may be necessary for each succeeding fiscal year;

''(2) to carry out section 303, $200,000,000 for fiscal year 2010 and such sums as may be necessary for each succeeding fiscal year;

''(3) to carry out section 304, $3,000,000 for fiscal year 2010 and such sums as may be necessary for each succeeding fiscal year; and

''(4) to carry out section 305, $400,000,000 for fiscal year 2010 and such sums as may be necessary for each succeeding fiscal year.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 181—DESIGNATING JUNE 10, 2009, AS ''NATIONAL PIPELINE SAFETY DAY''

Mrs. MURRAY (for herself and Ms. CANTWELL) submitted the following resolution; which was considered and agreed to:

S. RES. 181

Whereas there are more than 2,000,000 miles of gas and hazardous liquid pipelines in the United States that are operated by more than 3,000 companies;

Whereas gas and hazardous liquid pipelines play a vital role in the lives of people in the United States by delivering the energy needed to heat homes, drive cars, cook food and operate businesses;

Whereas, during the last decade, significant new pipelines have been built to help move North American sources of oil and gas to refineries and markets;

Whereas, on June 10, 1999, a hazardous liquid pipeline ruptured and exploded in a park in Bellingham, Washington, killing 2 10-year-old boys and a young man, destroying a salmon stream, and causing hundreds of millions of dollars in damage and economic disruption;

Whereas, in response to the pipeline tragedy on June 10, 1999, Congress enacted significant new pipeline safety regulations, including in the Pipeline Safety Improvement Act of 2002 (Public Law 107-355; 116 Stat. 2985) and the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (Public Law 109-468; 120 Stat. 3486);

Whereas, during the last decade, the Pipelines and Hazardous Materials Safety Administration of the Department of Transportation, with support from a diverse group of stakeholders, has instituted a variety of important new rules and pipeline safety initiatives, such as the Common Ground Alliance, pipeline emergency training with the National Association of State Fire Marshals, and the Pipelines and Informed Planning Alliance;

Whereas, even with pipeline safety improvements, in 2008 there were 274 significant pipeline incidents that caused more than $395,000,000 of damage to property and disrupted the economy;

Whereas, even though pipelines are the safest method to transport huge quantities of fuel, pipeline incidents are still occurring, including the pipeline explosion in Edison, New Jersey, in 1994 that left 100 people homeless, the butane pipeline explosion in Texas in 1996 that left 2 teenagers dead, the pipeline explosion near Carlsbad, New Mexico, in 2000 that killed 12 people in an extended family, the pipeline explosion in Walnut Creek, California, in 2004 that killed 5 workers, and the propane pipeline explosion in Mississippi in 2007 that killed a teenager and her grandmother;

Whereas the millions of miles of pipelines are still ''out of sight'', and therefore ''out of mind'' for the majority of people, local governments, and businesses in the United States, a situation that can lead to pipeline damage and a general lack of oversight of pipelines;

Whereas greater awareness of pipelines and pipeline safety can improve public safety;

Whereas a ''National Pipeline Safety Day'' can provide a focal point for creating greater pipeline safety awareness; and

Whereas June 10, 2009, is the 10th anniversary of the Bellingham, Washington, pipeline tragedy that was the impetus for many of the safety improvements described in this resolution and is an appropriate day to designate as ''National Pipeline Safety Day'': Now, therefore, be it

Resolved, That the Senate—

(1) designates June 10, 2009, as ''National Pipeline Safety Day'';

(2) encourages State and local governments to observe the day with appropriate activities that promote pipeline safety;

(3) encourages all pipeline safety stakeholders to use the day to create greater public awareness of all the advancements that can lead to greater pipeline safety; and

(4) encourages individuals throughout the United States to become more aware of the pipelines that run through communities in the United States and to encourage safe practices and damage prevention relating to gas and hazardous liquid pipelines.

SENATE RESOLUTION 182—RECOGNIZING THE DEMOCRATIC ACCOMPLISHMENTS OF THE PEOPLE OF ALBANIA AND EXPRESSING THE HOPE THAT THE PARLIAMENTARY ELECTIONS ON JUNE 28, 2009, MAINTAIN AND IMPROVE THE TRANSPARENCY AND FAIRNESS OF DEMOCRACY IN ALBANIA

Mr. KERRY (for himself, Mr. LUGAR, Mrs. SHAHEEN, Mr. CARDIN, Mr. LIEBERMAN, and Mr. DEMINT) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 182

Whereas the people of Albania have made extraordinary progress from authoritarian government and a closed market to a democratic government and market economy in less than two decades;

Whereas the Republic of Albania, with the advice and consent of this Senate and the governments of the other member countries, was officially admitted to full membership in the North Atlantic Treaty Organization on April 2, 2009;

Whereas the Thessaloniki Declaration of 2003 confirmed that the countries of the Western Balkans are eligible for accession to the European Union once they have fulfilled the requirements for membership; and

Whereas the Government of Albania has accepted numerous specific commitments governing the conduct of elections as a participating State in the Organization for Security and Cooperation in Europe (OSCE): Now, therefore, be it

Resolved, That the Senate—

(1) urges the Government of Albania to fulfill the commitments it has made to the OSCE with respect to the conduct of its upcoming elections, and to ensure that those elections are free and fair;

(2) urges the Government of Albania to expedite the implementation of its voter identification card program to minimize the possibility of disenfranchisement and provide as many cards as possible to eligible voters prior to the election;

(3) commends the positive step taken by the Government of Albania to reduce the cost of the voter ID card significantly and avoid charges of a poll tax; and

(4) expresses its hope that credible democratic elections in Albania will contribute to a strong and stable government responsive to the wishes of the people of Albania and strengthen Albania's standing within NATO and European institutions.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a the business meeting of the Committee on Energy and Natural Resources that convened on Tuesday, June 9, 2009, will resume on Thursday, June 11, 2009, at 2 p.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the business meeting is to consider pending energy legislation.

For further information, please contact Sam Fowler at (202) 224–7571 or Amanda Kelly at (202) 224–6836.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BEGICH. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, June 10, 2009, at 11 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BEGICH. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 10, 2009 at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BEGICH. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, June 10, 2009.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BEGICH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 10, 2009, at 9:45 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. BEGICH. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate on Wednesday, June 10, 2009.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. BEGICH. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, June 10, 2009, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BEGICH. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on June 10, 2009, at 10 a.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''The Continued Importance of the Violence Against Women Act.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. BEGICH. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, June 10, 2009, at 2:30 p.m.,

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. BEGICH. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, June 10, 2009, at 3 p.m.,

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. BEGICH. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Wednesday, June 10, 2009. The Committee will meet in room 418 of the Russell Senate Office Building beginning at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

AD HOC SUBCOMMITTEE ON CONTRACTING OVERSIGHT

Mr. BEGICH. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on Contracting Oversight of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, June 10, 2009, at 2:30 p.m., to conduct a hearing entitled, ''Allegations of Waste, Fraud, and Abuse in Security Contracts at the U.S. Embassy in Kabul.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AVIATION OPERATIONS, SAFETY, AND SECURITY

Mr. BEGICH. Mr. President, I ask unanimous consent that the Subcommittee on Aviation Operations, Safety, and Security of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Wednesday, June 10, 2009, at 2:30 p.m., in room 253 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2009

Mr. BEGICH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 70, S. 407.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 407) to increase, effective as of December 1, 2009, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

S. 407

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the ''Veterans' Compensation Cost-of-Living Adjustment Act of 2009''.

[SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

[(a) RATE ADJUSTMENT.—Effective on December 1, 2009, the Secretary of Veterans Affairs shall increase, in accordance with subsection (c), the dollar amounts in effect on November 30, 2009, for the payment of disability compensation and dependency and indemnity compensation under the provisions specified in subsection (b).

[(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

[(1) WARTIME DISABILITY COMPENSATION.—Each of the dollar amounts under section 1114 of title 38, United States Code.

[(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts under section 1115(1) of such title.

[(3) CLOTHING ALLOWANCE.—The dollar amount under section 1162 of such title.

[(4) DEPENDENCY AND INDEMNITY COMPENSATION TO SURVIVING SPOUSE.—Each of the dollar amounts under subsections (a) through (d) of section 1311 of such title.

[(5) DEPENDENCY AND INDEMNITY COMPENSATION TO CHILDREN.—Each of the dollar amounts under sections 1313(a) and 1314 of such title.

[(c) DETERMINATION OF INCREASE.—

[(1) PERCENTAGE.—Except as provided in paragraph (2), each dollar amount described in subsection (b) shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2009, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

[(2) ROUNDING.—Each dollar amount increased under paragraph (1), if not a whole dollar amount, shall be rounded to the next lower whole dollar amount.

[(d) SPECIAL RULE.—The Secretary of Veterans Affairs may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons under section 10 of Public Law 85–857 (72 Stat. 1263) who have not received compensation under chapter 11 of title 38, United States Code.

[(e) PUBLICATION OF ADJUSTED RATES.—The Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in subsection (b), as increased under subsection (a), not later than the date on which the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 2010.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Veterans' Compensation Cost-of-Living Adjustment Act of 2009''.

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) RATE ADJUSTMENT.—Effective on December 1, 2009, the Secretary of Veterans Affairs shall increase, in accordance with subsection (c), the dollar amounts in effect on November 30, 2009, for the payment of disability compensation and dependency and indemnity compensation under the provisions specified in subsection (b).

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) WARTIME DISABILITY COMPENSATION.—Each of the dollar amounts under section 1114 of title 38, United States Code.

(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts under section 1115(1) of such title.

(3) CLOTHING ALLOWANCE.—The dollar amount under section 1162 of such title.

(4) DEPENDENCY AND INDEMNITY COMPENSATION TO SURVIVING SPOUSE.—Each of the dollar amounts under subsections (a) through (d) of section 1311 of such title.

(5) DEPENDENCY AND INDEMNITY COMPENSATION TO CHILDREN.—Each of the dollar amounts under sections 1313(a) and 1314 of such title.

(c) DETERMINATION OF INCREASE.—

(1) PERCENTAGE.—Except as provided in paragraph (2), each dollar amount described in subsection (b) shall be increased by the same percentage as the percentage by which benefit

amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2009, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(2) ROUNDING.—Each dollar amount increased under paragraph (1), if not a whole dollar amount, shall be rounded to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary of Veterans Affairs may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons under section 10 of Public Law 85–857 (72 Stat. 1263) who have not received compensation under chapter 11 of title 38, United States Code.

(e) PUBLICATION OF ADJUSTED RATES.—The Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in subsection (b), as increased under subsection (a), not later than the date on which the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 2010.

SEC. 3. CODIFICATION OF 2008 COST-OF-LIVING ADJUSTMENT IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) VETERANS' DISABILITY COMPENSATION.—Section 1114 of title 38, United States Code, is amended—

(1) in subsection (a), by striking ''$117'' and inserting ''$123'';

(2) in subsection (b), by striking ''$230'' and inserting ''$243'';

(3) in subsection (c), by striking ''$356'' and inserting ''$376'';

(4) in subsection (d), by striking ''$512'' and inserting ''$541'';

(5) in subsection (e), by striking ''$728'' and inserting ''$770'';

(6) in subsection (f), by striking ''$921'' and inserting ''$974'';

(7) in subsection (g), by striking ''$1,161'' and inserting ''$1,228'';

(8) in subsection (h), by striking ''$1,349'' and inserting ''$1,427'';

(9) in subsection (i), by striking ''$1,517'' and inserting ''$1,604'';

(10) in subsection (j), by striking ''$2,527'' and inserting ''$2,673'';

(11) in subsection (k)—

(A) by striking ''$91'' both places it appears and inserting ''$96''; and

(B) by striking ''$3,145'' and ''$4,412'' and inserting ''$3,327'' and ''$4,667'', respectively;

(12) in subsection (l), by striking ''$3,145'' and inserting ''$3,327'';

(13) in subsection (m), by striking ''$3,470'' and inserting ''$3,671'';

(14) in subsection (n), by striking ''$3,948'' and inserting ''$4,176'';

(15) in subsections (o) and (p), by striking ''$4,412'' each place it appears and inserting ''$4,667'';

(16) in subsection (r), by striking ''$1,893'' and ''$2,820'' and inserting ''$2,002'' and ''$2,983'', respectively; and

(17) in subsection (s), by striking ''$2,829'' and inserting ''$2,993''.

(b) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Section 1115(1) of such title is amended—

(1) in subparagraph (A), by striking ''$142'' and inserting ''$150'';

(2) in subparagraph (B), by striking ''$245'' and ''$71'' and inserting ''$259'' and ''$75'', respectively;

(3) in subparagraph (C), by striking ''$96'' and ''$71'' and inserting ''$101'' and ''$75'', respectively;

(4) in subparagraph (D), by striking ''$114'' and inserting ''$120'';

(5) in subparagraph (E), by striking ''$271'' and inserting ''$286''; and

(6) in subparagraph (F), by striking ''$227'' and inserting ''$240''.

(c) CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.—Section 1162 of such title is amended by striking ''$677'' and inserting ''$716''.

(d) DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.—

(1) NEW LAW DIC.—Section 1311(a) of such title is amended—

(A) in paragraph (1), by striking ''$1,091'' and inserting ''$1,154''; and

(B) in paragraph (2), by striking ''$233'' and inserting ''$246''.

(2) OLD LAW DIC.—The table in paragraph (3) of such section is amended to read as follows:

''Pay grade	Monthly rate	Pay grade	Monthly rate
E–1	$1,154	W–4	$1,380
E–2	$1,154	O–1	$1,219
E–3	$1,154	O–2	$1,260
E–4	$1,154	O–3	$1,347
E–5	$1,154	O–4	$1,427
E–6	$1,154	O–5	$1,571
E–7	$1,194	O–6	$1,771
E–8	$1,260	O–7	$1,912
E–9	[1]$1,314	O–8	$2,100
W–1	$1,219	O–9	$2,246
W–2	$1,267	O–10	[2]$2,463
W–3	$1,305		

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,419.

[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $2,643.''.

(3) ADDITIONAL DIC FOR CHILDREN OR DISABILITY.—Section 1311 of such title is amended—

(A) in subsection (b), by striking ''$271'' and inserting ''$286'';

(B) in subsection (c), by striking ''$271'' and inserting ''$286''; and

(C) in subsection (d), by striking ''$128'' and inserting ''$135''.

(e) DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.—

(1) DIC WHEN NO SURVIVING SPOUSE.—Section 1313(a) of such title is amended—

(A) in paragraph (1), by striking ''$462'' and inserting ''$488'';

(B) in paragraph (2), by striking ''$663'' and inserting ''$701'';

(C) in paragraph (3), by striking ''$865'' and inserting ''$915''; and

(D) in paragraph (4), by striking ''$865'' and ''$165'' and inserting ''$915'' and ''$174'', respectively.

(2) SUPPLEMENTAL DIC FOR CERTAIN CHILDREN.—Section 1314 of such title is amended—

(A) in subsection (a), by striking ''$271'' and inserting ''$286'';

(B) in subsection (b), by striking ''$462'' and inserting ''$488''; and

(C) in subsection (c), by striking ''$230'' and inserting ''$243''.

(f) DEPENDENCY AND INDEMNITY COMPENSATION PAYABLE TO PARENTS.—Section 1315 is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''$163'' and inserting ''$569''; and

(B) in paragraph (3), by striking ''$4,038'' and inserting ''$13,456'';

(2) in subsection (c)—

(A) in paragraph (1), by striking ''$115'' and inserting ''$412''; and

(B) in paragraph (3), by striking ''$4,038'' and inserting ''$13,456'';

(3) in subsection (d)—

(A) in paragraph (1), by striking ''$109'' and inserting ''$387''; and

(B) in paragraph (3), by striking ''$5,430'' and inserting ''$18,087''; and

(4) in subsection (g), by striking ''$85'' and inserting ''$308''.

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 1, 2008.

Mr. BEGICH. Mr. President, I ask unanimous consent that the committee-reported substitute amendment be agreed to, the bill, as amended, be read a third time and passed; that the committee-reported title amendment be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 407), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

The title amendment was agreed to, as follows:

A Bill to amend title 38, United States Code, to provide for an increase, effective December 1, 2009, in the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, to codify increases in the rates of such compensation that were effective as of December 1, 2008, and for other purposes.

DISCHARGE AND REFERRAL—S. 1122

Mr. BEGICH. Mr. President, I ask unanimous consent that the bill S. 1122

be discharged from the Committee on Agriculture, Nutrition, and Forestry, and that it be referred to the Committee on Energy and Natural Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURES READ THE FIRST TIME—S. 1232 AND H.R. 2751

Mr. BEGICH. Mr. President, I understand there are two bills at the desk, and I ask for their first reading en bloc.

The PRESIDING OFFICER. The clerk will report the titles of the bills.

The legislative clerk read as follows:

A bill (S. 1232) to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs, and for other purposes.

A bill (H.R. 2751) to accelerate motor fuel savings nationwide and provide incentives to registered owners of high polluting automobiles to replace such automobiles with new fuel efficient and less polluting automobiles.

Mr. BEGICH. Mr. President, I now ask for a second reading en bloc, and I object to my own request en bloc.

The PRESIDING OFFICER. Objection is heard.

The bills will be read for the second time on the next legislative day.

Mr. BEGICH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BEGICH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, JUNE 11, 2009

Mr. BEGICH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., Thursday, June 11; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and that there be a period of morning business until 2 p.m., with Senators permitted to speak for up to 10 minutes each, with the first hour equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first 30 minutes and the majority controlling the second 30 minutes; that following morning business, the Senate resume consideration of H.R. 1256, the Family Smoking Prevention and Tobacco Control Act, with the time until 2:30 p.m. equally divided and controlled between Senators DODD and ENZI or their designees; that at 2:30 p.m., all postcloture debate time has expired, the Senate proceed to vote on the passage of the bill, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BEGICH. Mr. President, tomorrow at approximately 2:30 p.m., the Senate will proceed to a rollcall vote on passage of the FDA tobacco legislation.

ORDER FOR ADJOURNMENT

Mr. BEGICH. Mr. President, following the remarks of Senator CHAMBLISS, I ask unanimous consent that the Senate adjourn under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNIZING COACH SUZANNE YOCULAN

Mr. CHAMBLISS. Mr. President, I rise tonight to recognize a very special Georgian. Suzanne Yoculan just retired as the coach of the women's gymnastic program at the University of Georgia.

Coach Yoculan is a graduate of Penn State University, and she was named head coach of the University of Georgia gymnastics team in 1983. The team, under her leadership, has been nothing short of spectacular. During her 26 years at the helm, Georgia's gymnastics team, or the Gym Dogs, as they are affectionately referred to, have posted a meet record of 831 wins, 117 losses, and 7 ties, for a winning percentage of .870—pretty spectacular.

Let me list the accomplishments the Gym Dogs have achieved under the leadership of Coach Yoculan: Four undefeated seasons: 1993, 1998, 1999, and 2006. Her teams have finished in the top three in the Nation 19 out of the last 21 years. They have also been a part of the Super Six, the final six NCAA teams every year since the format was introduced in 1993, and have never missed the NCAA women's gymnastics competition. She was Southeastern Conference Women's Gymnastics Coach of the Year in 1986, 1987, 1999, 2001, 2002, 2004, 2008, and 2009. She was the NCAA Women's Gymnastics Coach of the Year in 1987, 1993, 1998, 2006, and 2008. Under her leadership, the Gym Dogs won 21 regional NCAA titles, and they won 16 Southeastern Conference championships and 10 NCAA women's championships, including in the years 2005, 2006, 2007, 2008, and 2009. Yes, that is right—the last 5 years in a row, under Coach Yoculan's leadership, our Gym Dogs have won the national championship each and every year.

This year, in April, the team competed in the NCAA match at the Bob Devaney Center in Lincoln, NE. After a slow start, Coach Yoculan gathered the team in the locker room, gave them a pep talk, and demanded, as she always does, an awful lot from her lady athletes. And did they ever respond in a very positive way. They came down the stretch with several different 10s on various platforms and won the national championship for the fifth consecutive time.

Coach Yoculan made this statement after the meet:

It is really a magical team that has so much fortitude and just love for the sport and passion, and they never quit. I feel blessed, and I actually lived it every day being around them, and that is the thing I am going to miss the most.

Well, those of us who are Bulldogs feel blessed to have had Suzanne Yoculan as our gymnastics coach for the last 26 years. We congratulate her on a very successful career, and certainly we wish her the best in wherever life may take her from here.

GUANTANAMO BAY

Mr. CHAMBLISS. Mr. President, next I rise to speak about the terrorists being held at Guantanamo Bay naval facility, or Gitmo. There are over 240 terrorists in U.S. custody at the military detention facility in Guantanamo Bay, Cuba, today. Let me describe some of the individuals who reside at Guantanamo.

First, Khalid Shaikh Mohammed, or KSM, is the self-proclaimed and quite unapologetic mastermind of the 9/11 attacks. KSM admitted he was the planner of 9/11 and other planned, but foiled, attacks against the United States. In his combatant status review board, he admitted that he swore allegiance to Osama bin Laden, was a member of al-Qaida, was the military operational commander for all foreign al-Qaida operations, and much more. KSM and four other detainees who are charged with conspiring to commit terrible 9/11 attacks remain at Guantanamo today. In addition, Gitmo houses Abd al-Rahim al-Nashiri, who was responsible for the October 2000 USS Cole bombing which murdered 17 U.S. sailors and injured 37 others. Also residing at Gitmo are Osama bin Laden's personal bodyguards, al-Qaida's terrorist camp trainers, al-Qaida bomb makers, and individuals picked up on the battlefield with weapons trying to kill American soldiers—our young men and women who patriotically serve their country. The detainees at Guantanamo are some of the most senior, hardened, and dangerous al-Qaida figures we have captured.

In May, just 3 weeks ago, the Senate voted 90 to 6 to prohibit any of these hardened terrorists from being brought to the United States. Despite this clear objection, the administration transferred one detainee, Ahmed Ghailani, to New York City yesterday. He is facing charges in the Southern District of New York for his role in the August 7, 1998, bombings of two U.S. Embassies in Africa.

Some of my colleagues in the Senate have touted this as an example of how we can bring criminal charges against the Gitmo detainees and try them in our courts. However, no one has pointed out that Ghailani was indicted on

March 12, 2001, a full 6 months prior to the terrorist attacks of 9/11 and after a full investigation by the Federal Bureau of Investigation. The case against Ghailani was built long before he was transferred to Gitmo in 2006. To imply that other detainees, many of whom the FBI has never investigated or collected evidence against, may similarly be prosecuted in U.S. courts is naive.

The President, in announcing the closing of Guantanamo Bay in January of this year, failed to come forward with a plan to tell the American people what he intended to do with the rest of the remaining prisoners being held in that facility. Americans are outraged about the fact that there is now the potential for those individuals to be transferred to the United States and the possibility that some of them may be released into American society.

The reaction of the administration to the outcry from the American people and to the outcry from Members of this body has been: Well, we are going to work this out. We are going to get people to take these individuals.

Well, needless to say, the previous administration had been trying to get folks to allow the return of their countrymen who are housed at Guantanamo for years, and they were not successful. That is why we still have 241 detainees at Guantanamo.

Yesterday, there was an announcement that 17 Uighurs, or Chinese terrorists, are going to be sent to the country of Palau. I doubt there are many Americans who can even tell you where Palau is. It turns out it is a country containing many islands somewhere out in the Pacific, not far from the Philippines.

In order to get Palau to take these 17 Uighurs, the Obama administration has committed to paying that country $200 million or, if my calculation is correct, about $11,764,705 per individual. A pretty good payment for taking these prisoners.

If that is the standard we are going to be using and the precedent we are now setting, you can figure the numbers to look at how much money it is going to cost us to transfer these remaining prisoners to other countries.

Guantanamo is a symbolic issue for many people around the world. I am not one who is going to stand here and say we should not close it. Obviously, there should be some long-range plan to get us out of Guantanamo and to ultimately close it. But without the administration coming forward with a plan, the American people are deservedly outraged at the fact that these individuals may be transferred to criminal facilities in the United States. They, thus, become eligible for all rights of individuals who are housed on U.S. domestic soil, including the right of habeas corpus, and, thus, because not in every case have our soldiers been able to look a guy in the eye who has a rifle in his hand and who is shooting at him, but they are able to disarm him and take the weapon away from him, they don't have the opportunity to gather evidence on the battlefield and to bag up all that evidence and take the time to write down names of witnesses who saw the activity on the battlefield. So there is the potential that some of these individuals might ultimately be successful in a habeas corpus action, be set free by some judge in a U.S. court and, thus, be eligible to be ingratiated into U.S. society.

A couple weeks ago, I filed a bill in the Senate which prohibits, No. 1, any detainee at Guantanamo from being transferred to the United States. The administration has already breached that, and that is why it is more important than ever we consider this bill.

But more importantly, if the President exercises other powers that he has outside of what may be even enacted into law, constitutional powers he may have, and brings these individuals into the United States, my bill will prohibit any opportunity for any of these individuals who are now housed at Guantanamo from ever being released into the society of the United States.

I sought to get this bill up as an amendment to the supplemental, but, unfortunately, my friends on the other side of the aisle saw it in a different way and would not let my amendment come up. We are going to be back. We are going to have this bill up either as a standalone bill or as an amendment at the next opportunity to make sure we do everything we can as Members of the Senate who voted 90 to 6 to not bring these individuals from Guantanamo to the United States, to again have the opportunity to vote on this issue and to make sure that not only do we not bring them here, but that if by some quirk the President decides we ought to bring them here and does so, then there is never the opportunity for those individuals to be released into the United States, into any of our communities, irrespective of where they may reside.

I simply will close tonight and say this is a very serious issue that, in fact, is being considered by the conferees tonight, I understand, on the supplemental that we voted on a couple weeks ago. The language that was agreed to by that 90-to-6 vote may be in jeopardy. Democrats may be trying to pull that particular provision out of the supplemental and to, thereby, not have language in there that would prohibit these individuals from coming into our country.

I think that is certainly against the will of the American people, it is certainly against the will of the Senate in a big way, and I think would be a huge mistake.

I look forward to continuing the debate on this issue. I look forward to our bill coming up, either in the form of a standalone bill or in the form of an amendment because this is an issue that is not going away until we figure out a way to deal with these individuals who are incarcerated at Guantanamo in a lawful manner as enemy combatants and that we figure out a way to deal with them on a long-term basis that ultimately will allow us to leave Guantanamo and close that facility.

Mr. President, I yield the floor.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER (Mr. BEGICH). Under the previous order, the Senate stands adjourned until June 11 at 10 a.m.

Thereupon, the Senate, at 7:16 p.m., adjourned until Thursday, June 11, 2009, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF THE INTERIOR

ROBERT V. ABBEY, OF NEVADA, TO BE DIRECTOR OF THE BUREAU OF LAND MANAGEMENT, VICE JAMES L. CASWELL, RESIGNED.

DEPARTMENT OF STATE

TIMOTHY J. ROEMER, OF INDIANA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO INDIA.

NATIONAL MEDIATION BOARD

HARRY R. HOGLANDER, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 2011. (REAPPOINTMENT)

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

SUSAN MARIE CARL, OF ALASKA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE TO BE CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

LANDON A. LOOMIS, OF LOUISIANA
KEENTON C. LUONG, OF CALIFORNIA
MEGAN A. SCHILDGEN, OF MARYLAND

DEPARTMENT OF STATE

KARL MILLER ADAM, OF TEXAS
ANJUM F. AKHTAR, OF CALIFORNIA
ELIZABETH ANN ALBIN, OF TEXAS
MARK K. ANTOINE, OF VIRGINIA
JULIA ELIZABETH APGAR, OF THE DISTRICT OF COLUMBIA
DANIEL PATRICK ARAGÓN, OF VERMONT
KARLA ASCARRUNZ, OF VIRGINIA
NATHAN D. AUSTIN, OF WASHINGTON
DINA A. BADAWY, OF CALIFORNIA
FRANCOISE I. BARAMDYKA, OF CALIFORNIA
ASHLEY CHANTÉL BARRINER-BYRD, OF PENNSYLVANIA
MATTHEW BAUMGARDT, OF THE DISTRICT OF COLUMBIA
BRIAN PAUL BECKMANN, OF MINNESOTA
FRITZ BERGGREN, OF WASHINGTON
KATHRYN W. BONDY, OF GEORGIA
ROXANA BOTEA, OF VIRGINIA
A. STEPHANIE BRANCAFORTE, OF VIRGINIA
JENNIFER LEIGH BRIDGERS, OF GEORGIA
THEODORE BROSIUS, OF THE DISTRICT OF COLUMBIA
ANNMARIE E. BRUEN, OF VIRGINIA
MICHAEL WILLIAM CAMPBELL, OF MARYLAND
JESSICA CHESBRO, OF OREGON
HENRY K. CLARK, OF MARYLAND
BIANCA M. COLLINS, OF VIRGINIA
PATRICIA A. CONNELLEY, OF VIRGINIA
JUSTIN JOHN COOK, OF VIRGINIA
ANTON M. COOPER, OF WASHINGTON
EDWARD KENNETH CORRIGAN IV, OF VIRGINIA
ANN MARIE COTE, OF MICHIGAN
ANDREW J. CURIEL, OF CALIFORNIA
DOUGLAS M. DISABELLO, OF VIRGINIA
JENNY R. DONADIO, OF VIRGINIA
NICK DONADIO, OF VIRGINIA
COLIN C. DREIZIN, OF CALIFORNIA
JENNIFER G. DUCKWORTH, OF THE DISTRICT OF COLUMBIA
THOMAS A. DUVAL, OF MASSACHUSETTS
AMY E. EAGLEBURGER, OF NORTH CAROLINA
JEREMY EDWARDS, OF TEXAS
JEFFREY E. ELLIS, OF WASHINGTON
SHANNON M. EPPS, OF VIRGINIA

JOHN C. ETCHEVERRY, OF VIRGINIA
KAREN J. FACKLER, OF VIRGINIA
SARAH L. FALLON, OF WISCONSIN
CRAIG J. FERGUSON, OF THE DISTRICT OF COLUMBIA
DYLAN THOMAS FISHER, OF THE DISTRICT OF COLUMBIA
THEODORE J. FISHER, OF CALIFORNIA
CHARLES FOUTS, OF CALIFORNIA
CALVIN C. FRANCIS, OF VIRGINIA
RYAN EASTMAN GABRIEL, OF VIRGINIA
ROBERT A. GAUTNEY, OF VIRGINIA
JOSEPH MARTIN GERAGHTY, OF THE DISTRICT OF COLUMBIA
JOHN DREW GIBLIN, OF GEORGIA
STEPHANIE SNOW GILBERT, OF OKLAHOMA
MARK T. GOLDRUP, OF CALIFORNIA
AMIT RAGHAVJI GOSAR, OF VIRGINIA
JOHN JAKE GOSHERT, OF NEW YORK
FORREST GRAHAM, OF MISSISSIPPI
ANDREA M. GRIMSTE, OF VIRGINIA
ANDREW HARROP, OF VIRGINIA
JESSICA A. HARTMAN, OF VIRGINIA
NICKOLAUS HAUSER, OF TEXAS
STEPHANIE MARIE HAUSER, OF FLORIDA
MARK E. HERNANDEZ, OF VIRGINIA
BENJAMIN G. HESS, OF NORTH CAROLINA
EDWARD T. HICKEY, OF THE DISTRICT OF COLUMBIA
JEAN HILLER, OF VIRGINIA
ALAN PAUL HOLMES, OF VIRGINIA
MARCIA ELIZABETH HOUSE, OF GEORGIA
BRENT W. ISRAELSEN, OF UTAH
WILLIAM JAMIESON, OF VIRGINIA
JAMES TAYLOR JOHNSON, OF VIRGINIA
LINDA M. JOHNSON, OF THE DISTRICT OF COLUMBIA
LUKE STEVEN JOHNSON, OF VIRGINIA
EMMIT A. JONES, OF VIRGINIA
PENELOPE R. JUSTICE, OF VIRGINIA
RACHEL Y. KALLAS, OF WISCONSIN
STEPHANIE KANG, OF MISSOURI
ARTHUR KEATING, OF VIRGINIA
WESLEY C. KELLY, OF VIRGINIA
MATTHEW DEFERREIRE KEMP, OF VIRGINIA
WILLIAM B. KINCAID, OF THE DISTRICT OF COLUMBIA
JERRAH M. KUCHARSKI, OF PENNSYLVANIA
ATHENA KWEY, OF CALIFORNIA
JAMES LAMSON, OF VIRGINIA
DAWSON EDWARD LAW, OF MONTANA
KATHERINE MAUREEN LEAHY, OF NEW JERSEY
ADAM J. LEFF, OF THE DISTRICT OF COLUMBIA
RONG LI, OF MAINE
MICHAEL LIES, OF THE DISTRICT OF COLUMBIA
ELIZABETH ANGELA LITCHFIELD, OF ILLINOIS
QIN P. LLOYD, OF VIRGINIA
PAUL A. LONGO, OF THE DISTRICT OF COLUMBIA
LOUIS T. MANARIN, OF VIRGINIA
CHRISTA LEORA MATTHEWS, OF VIRGINIA
JENNIFER L. MCANDREW, OF TEXAS
DANIEL CRAIG MCCANDLESS, OF PENNSYLVANIA
VICKI H. MCDANAL, OF VIRGINIA
LAYANNA K. MCLEOD, OF VIRGINIA
DANIEL E. MEHRING, OF CALIFORNIA
KRISTEN ANN MERRITT, OF CALIFORNIA
STERLING MICHOLS, OF NEVADA
RACHEL I. MIHM, OF VIRGINIA
KENNETH W. MILLER, OF VIRGINIA
ZACHARY J. MILLIMET, OF VIRGINIA
SCOTT J. MILLS, OF NORTH CAROLINA
ERIC CHARLES MOORE, OF MINNESOTA
KRISTY M. MORDHORST, OF TEXAS
MICHAEL K. MORTON, OF VIRGINIA
TIMOTHY P. MURPHY, OF WEST VIRGINIA
TIMOTHY M. NEWELL, OF VIRGINIA
SCOTT A. NORRIS, OF FLORIDA
SARAH OH, OF NEW YORK
MARK J. OLIVER, OF VIRGINIA
JAMES PAUL O'MEALIA, OF NEW JERSEY
IRENE IJEOMA ONYEAGBAKO, OF NEVADA
ERIK GRAHAM PAGE, OF SOUTH CAROLINA
TIMOTHY J. PENDARVIS, OF KANSAS
VALERIE PETITPREZ-HORTON, OF VIRGINIA
MARLENE H. PHILLIPS, OF VIRGINIA
MICHAEL P. PICARIELLO, OF VIRGINIA
HEIDI M. PICHLER, OF VIRGINIA
ARCHANA PODDAR, OF MASSACHUSETTS
STACEY D. PRICE, OF MARYLAND
A. LARISSA PROCTOR, OF PENNSYLVANIA
ERIN RAMSEY, OF NORTH CAROLINA
JERAMEE C. RICE, OF TENNESSEE
JAMES THOMAS RIDER, OF MICHIGAN
SYED-KHALID RIZVI, OF MARYLAND
JENNIFER W. ROBERTSON, OF VIRGINIA
MARK ROBERTSON, OF VIRGINIA
CHRISTOPHER M. ROGERS, OF VIRGINIA
DELBERT A. ROLL, OF VIRGINIA
TRAVIS D. RUTHERFORD, OF VIRGINIA
LISA A. SALAMONE, OF ARIZONA
DUSTIN F. SALVESON, OF UTAH
LEE ERIC SCHENK, OF THE DISTRICT OF COLUMBIA
JANELLE L. SCHWEHR, OF VIRGINIA
JONATHAN C. SCOTT, OF CALIFORNIA
VIKRUM SEQUEIRA, OF TEXAS
MIHAIL DAVID SEROHA, OF FLORIDA
MUHAMMAD RASHID SHAHBAZ, OF NEW YORK
GEORGE BRANDON SHERWOOD, OF NORTH CAROLINA
NATALYA C. SIMI, OF VIRGINIA
GWENDOLYNNE M. SIMMONS, OF FLORIDA
NATHAN R. SIMMONS, OF IDAHO
CHRISTOPHER JAMES SINAY, OF VIRGINIA
NISHA DILIP SINGH, OF THE DISTRICT OF COLUMBIA
MATTHEW SIREN, OF VIRGINIA
KIMBERLY L. SKOGLUND, OF VIRGINIA
JEREMY DANIEL SLEZAK, OF NEW JERSEY
ERIC ANTHONY SMITH, OF THE DISTRICT OF COLUMBIA
VORONIQUE E. SMITH, OF CALIFORNIA
ABIGAIL ANNE DAVIS SPANBERGER, OF VIRGINIA
WESLEY R. ST. ONGE, OF VIRGINIA
KRISTEN MARIE STOLT, OF ILLINOIS
ANNA AMALIA TAYLOR, OF VIRGINIA
JOHN MANNING THOMAS, OF THE DISTRICT OF COLUMBIA
ELISABETH SPIEKERMANN THORNTON, OF VIRGINIA
SARAH M. TRUETTNER, OF VIRGINIA
ANDREA TULLY, OF VIRGINIA
MARC E. TURNER, OF VIRGINIA
TIMOTHY J. USELMANN, OF VIRGINIA
ANNETTE VANDENBROEK, OF WISCONSIN
CHAD R. WAGNER, OF VIRGINIA
MARISA CORRADO WALSH, OF VIRGINIA
MICHAEL JAMES WAUTLET, OF COLORADO
MATTHEW HARRIS WELCH, OF VIRGINIA
GEOFFREY DAVID WESSEL, OF NORTH CAROLINA
AMOS A. WETHERBEE, OF MASSACHUSETTS
GARRETT E. WILKERSON, OF OREGON
STEVE J. WINGLER, JR., OF GEORGIA
JOHN ANTHONY GERHARD YODER, OF VIRGINIA
MARGARET ANNE YOUNG, OF MISSOURI
MELISSA B. ZELLNER, OF ILLINOIS

SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

JOHN J. KIM, OF THE DISTRICT OF COLUMBIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR, EFFECTIVE JUNE 22, 2008:

DALE N. TASHARSKI, OF TENNESSEE

CONFIRMATIONS

Executive nominations confirmed by the Senate, Wednesday, June 10, 2009:

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. DOUGLAS M. FRASER

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. STANLEY A. MCCHRYSTAL

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be admiral

ADM. JAMES G. STAVRIDIS

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.